

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WATER QUALITY PROGRAMS**

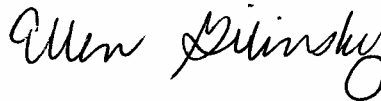
P.O.BOX 10009

Richmond, VA 23240-0009

Subject: Guidance Memorandum #05-2007
Pollution Response Program (PREP) Manual

To: Regional Directors

From: Ellen Gilinsky, Ph.D., Director



Date: April 15, 2005

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Summary:

The attached Pollution Response Program (PREP) Manual provides guidance to staff in conducting pollution incident investigations. The manual also establishes core incident tracking requirements to be included in the proposed PREP Module of CEDS. Until this module is developed, Regions should continue tracking pollution incident information in their existing regional PREP databases. Staff should discontinue use of all earlier versions of the PREP Manual.

Electronic Copy:

An electronic copy of this guidance in PDF format is available for staff internally on DEQNET, and for the general public on DEQ's website at: <http://www.deq.virginia.gov>.

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Disclaimer:

This document is provided as guidance and, as such, sets forth standard operating procedures for the agency. However, it does not mandate any particular method nor does it prohibit any particular method for the analysis of data, establishment of a wasteload allocation, or establishment of a permit limit. If alternative proposals are made, such proposals should be reviewed and accepted or denied based on their technical adequacy and compliance with appropriate laws and regulations.

POLLUTION RESPONSE PROGRAM MANUAL

DEQ Guidance Document #05-2007

April 15, 2005

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1.0 INTRODUCTION

This manual is intended for use by the Department of Environmental Quality (DEQ) staff involved in the investigation of pollution incidents which may impact, or have impacted, human health and/or the environment. The DEQ Pollution Response Program (PREP) Manual describes the purpose and intent of the Program and provides guidance in conducting investigations, damage assessments, and coordination with other state, federal, and local responders. The mission statement for PREP is as follows:

The Department of Environmental Quality's Pollution Response Program shall provide timely and effective responses to air, water, and waste pollution incidents where a response is needed to protect human health and the environment. The program promotes effective investigations of the source and impacts of pollution; directs and assists the responsible party in responding to the pollution incident; and assists local, state, or federal agencies in managing incidents that involve pollution.

In accordance with this manual, DEQ staff shall investigate pollution incidents, coordinate and direct cleanup activities, provide technical, logistical, and financial resource support to on-scene first responders, and assess natural resource damage. PREP staff shall plan and coordinate incident responses with other state, local, and federal responders.

The Department of Environmental Quality staff shall not act as emergency responders. Staff shall only respond when it is safe to do so, and in no event shall staff knowingly place themselves, or others, in a dangerous situation.

1.1 PURPOSE AND INTENT

The primary purpose of the DEQ PREP is to provide an appropriate DEQ response to pollution incidents that threaten human health and the environment. The PREP staff directs environmental cleanups over which DEQ has jurisdiction and coordinates assessment of damages to natural resources. To accomplish this, selected DEQ staff is available on a full time, around-the-clock basis.

The program also provides timely support to local, state, and federal emergency responders. When requested, PREP staff will provide verbal or onsite assistance to the emergency responders. PREP onsite response may not be necessary if emergency responders do not require assistance and are taking appropriate measures to protect the environment. Field responses should only be undertaken when it is safe to do so and field investigations must be conducted in a safe manner. **Staff should never place themselves in danger.** If staff is close enough to an area of contamination to place them at risk, **THEY MUST LEAVE THE AREA!**

1.2 LEGISLATIVE AUTHORITIES

The DEQ PREP has implementation responsibilities for pollution incidents involving AIR, WATER, and WASTE media. The three main sections of Virginia environmental law related to PREP that the DEQ operates under are:

Code of Virginia. Title 62.1 Chapter 3.1 State Water Control Law, as amended

§ 62.1-44.2 It is the policy of the Commonwealth of Virginia and the purpose of this law is to:

- (1) protect existing high quality state waters and restore all other state waters to such condition of quality that any such waters will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, which might reasonably be expected to inhabit them,
- (2) safeguard the clean waters of the Commonwealth from pollution,
- (3) prevent any increase in pollution,
- (4) reduce existing pollution,
- (5) promote and encourage the reclamation and reuse of wastewater in a manner protective of the environment and public health, and
- (6) promote water resource conservation, management and distribution, and encourage water consumption reduction in order to provide for the health, safety, and welfare of the present and future citizens of the Commonwealth.

§ 62.1-44.34:18 The discharge of oil into or upon state waters, lands, or storm drain systems within the Commonwealth is prohibited. Pollution incidents of oil into or upon state waters include pollution incidents of oil that:

- (i) violate applicable water quality standards or a permit or certificate of the Board, or
- (ii) cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

Code of Virginia. Virginia Waste Management Act. Title 10.1. Chapter 14. as amended

§10.1-1402 The Board shall carry out the purposes and provisions of this chapter and compatible provisions of federal acts and is authorized to:

1. Supervise and control waste management activities in the Commonwealth.
2. Provide technical assistance and advice concerning all aspects of waste management.
3. Make separate orders and regulations it deems necessary to meet any emergency to protect public health, natural resources and the environment from the release or imminent threat of release of waste.
4. Take actions to contain or cleanup sites or to issue orders to require cleanup of sites where solid or hazardous waste, or other substances within the jurisdiction of the Board, have been improperly managed and to institute legal proceedings to recover the costs of the containment or clean-up activities from the responsible parties.
5. Abate hazards and nuisances dangerous to public health, safety or the environment, both emergency and otherwise, created by the improper disposal, treatment, storage, transportation or management of substances within the jurisdiction of the Board.
6. Notwithstanding any other provision of law to the contrary, regulate the management of mixed radioactive waste.

Code of Virginia. Virginia Air Pollution Control Law. Title 10.1. Chapter 13. as amended

§ 10.1-1306 The Board shall make, or cause to be made, such investigations and inspections and do such other things as are reasonably necessary to carry out the provisions of this chapter, within the limits of the

appropriations, study grants, funds, or personnel which are available for the purposes of this chapter, including the achievement and maintenance of such levels of air quality as will protect human health, welfare and safety and to the greatest degree practicable prevent injury to plant and animal life and property and which will foster the comfort and convenience of the people of the Commonwealth and their enjoyment of life and property and which will promote the economic and social development of the Commonwealth and facilitate enjoyment of its attractions.

1.3 KEY DEFINITIONS FROM STATE LAW

AIR

"Air pollution" means the presence in the outdoor atmosphere of one or more substances which are or may be harmful or injurious to human health, welfare or safety, to animal or plant life, or to property, or which unreasonably interfere with the enjoyment by the people of life or property.

WASTE

"Clean Wood Waste" means uncontaminated natural or untreated wood. Clean wood includes but is not limited to byproducts of harvesting activities conducted for forest management or commercial logging, or mill residues consisting of bark, chips, edgings, sawdust, shavings, or slabs. It does not include wood that has been treated, adulterated, or chemically changed in some way, treated with glues, binders, or resins; or painted, stained, or coated.

"Hazardous waste" means a solid waste or combination of solid waste which, because of its quantity, concentration or physical, chemical or infectious characteristics, may:

1. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating illness; or
2. Pose a substantial present or potential hazard to human health or the environment when improperly treated stored, transported, disposed of, or otherwise managed.

Further clarification of this definition can be found in 9 VAC 20-60-14 et. seq.

"Regulated Medical Waste" means: solid waste that it meets either of the two following criteria:

1. Any solid waste is a regulated medical waste if it is suspected by the health care professional in charge of being capable of producing an infectious disease in humans. A solid waste shall be considered to be capable of producing an infectious disease if it has been or is likely to have been contaminated by an organism likely to be pathogenic to healthy humans, such organism is not routinely and freely available in the community, and if such organism has a significant probability of being present in sufficient quantities and with sufficient virulence to transmit disease. If the exact cause of a patient's illness is unknown, but the health care professional in charge suspects a contagious disease is the cause, the likelihood of pathogen transmission shall be assessed based on the pathogen suspected of being the cause of the illness.
2. Any solid waste that is not excluded from regulation is a regulated medical waste if it is listed in 9 VAC 20-120-150.

"Radioactive waste" or "nuclear waste" includes:

1. "Low-level radioactive waste" material that:
 - a. Is not high-level radioactive waste, spent nuclear fuel, transuranic waste, or by-product material as defined in section 11e (2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014 (e) (2)); and
 - b. The Nuclear Regulatory Commission, consistent with existing law, classifies as low-level radioactive waste; or
2. "High-level radioactive waste" which means:
 - a. The highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations; and
 - b. Other highly radioactive material that the Nuclear Regulatory Commission, consistent with existing law, determines by rule requires permanent isolation.

"Solid waste" means any garbage, refuse, sludge and other discarded material, including solid, liquid, semisolid or contained gaseous material, resulting from industrial, commercial, mining and agricultural operations, or community activities but does not include

- (i) solid or dissolved material in domestic sewage,
- (ii) solid or dissolved material in irrigation return flows or in industrial discharges which are sources subject to a permit from the State Water Control Board, or
- (iii) source, special nuclear, or by-product material as defined by the Federal Atomic Energy Act of 1954, as amended.

Further clarification of this definition can be found in 9 V AC 20-80-140 et. seq.

"Special Waste" means solid wastes that are difficult to handle, require special precautions because of hazardous properties or the nature of the waste creates waste management problems in normal operations.

"Vegetative Waste" means decomposable materials generated by yard and lawn care or land-clearing activities and includes, but is not limited to, leaves, grass trimmings, and woody wastes such as shrub and tree pruning, bark, limbs, roots, and stumps.

WATER

"Industrial wastes" means liquid or other wastes resulting from any process of industry, manufacture, trade or business, or from the development of any natural resources.

"Oil" means oil of any kind and in any form, including, but not limited to, petroleum and petroleum by-products, fuel oil, lubricating oils, sludge, oil refuse, oil mixed with other wastes, crude oils and all other liquid hydrocarbons regardless of specific gravity.

"Other wastes" means decayed wood, sawdust, shavings, bark, lime, garbage, refuse, ashes, offal, tar, oil, chemicals, and all other substances, except industrial wastes and sewage, which may cause pollution in any state waters.

"Pollution" means such alteration of the physical, chemical or biological properties of any state waters as will or is likely to create a nuisance or render such waters

- (a) harmful or detrimental or injurious to the public health, safety or welfare, or to the health of animals, fish or aquatic life;
- (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or
- (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses; provided that
 - (i) an alteration of the physical, chemical, or biological property of state waters, or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution, but which, in combination with such alteration of or discharge or deposit to state waters by other owners is sufficient to cause pollution;
 - (ii) the discharge of untreated sewage by any owner into state waters; and
 - (iii) contributing to the contravention of standards of water quality duly established by the Board, are "pollution"...

"Sewage" means the water-carried human wastes from residences, buildings, industrial establishments or other places together with such industrial wastes, underground, surface, storm, or other water, as may be present.

"State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.

2.0 NOTIFICATION AND REPORTING REQUIREMENTS FOR POLLUTION

2.1 STATE REQUIREMENTS

Air, Water, and Waste Laws and the Virginia Administrative Code (regulations) require the permitting and reporting of pollution to DEQ under certain circumstances. These requirements are outlined below.

Water Permit, Notification, and Reporting Requirements

DEQ issues Virginia Pollutant Discharge Elimination System (VPDES) permits for all point source discharges of pollutants to surface waters. The Petroleum Discharge General Permit allows petroleum-contaminated discharges to surface waters from petroleum cleanup sites, construction dewatering, and pipeline hydrostatic testing. A Virginia Pollution Abatement (VPA) permit may be issued by DEQ whenever an owner handles waste and wastewater in a manner that does not involve discharging to a sewage treatment works, or to state waters pursuant to a valid VPDES permit. In general, land application of industrial waste or spray irrigation of industrial and municipal wastewater requires a VPA individual permit. Confined animal feeding operations require a VPA individual or general permit. A separate VPA general permit covers confined poultry feeding operations for poultry waste management.

The Virginia Water Protection (VWP) Permit regulates impacts to state waters, including wetlands. This permit program also serves as Virginia's § 401 certification of § 404 permits under the federal Clean Water Act. Application for a VWP Permit is made through the Joint Permit Application process and undergoes concurrent federal and state project review.

Requirements for reporting discharges in excess of permit limitations or unauthorized discharges can be found in the following locations:

State Water Control Law § 62.1-44.5 A authorizes a person with a VPDES Permit, VPA Permit, or VWP Permit issued by the Board to discharge waste or alter the quality of state waters. Any person who discharges wastes or otherwise alters the quality of state waters and who is not in compliance with their permit(s) or who is without a permit is in violation of this section of the law.

State Water Control Law § 62.1-44.5 B requires any person who discharges sewage, industrial waste, other wastes or any noxious or deleterious substance that will or could reasonably be expected to enter state waters and that discharge is not in compliance with a permit issued by the State Water Control Board, to notify the DEQ, or the coordinator of emergency services of any locality that could reasonably be expected to be impacted.

VPDES and VPA permits require immediate notification by telephone (no later than 24 hours from the time the permittee is aware of the situation) to DEQ and follow-up written notice within 5 days for unauthorized discharges and unusual or extraordinary discharges (including bypasses and upsets) and discharges that endanger human health and the environment. VWP permits require immediate reporting of fish kills or spills of oil, and violation of water quality standards within 24 hours.

§ 62.1-44.5 A and B may be used to address any unpermitted discharge of pollutants to state waters.

Typically DEQ addresses discharges of oil under the more specific requirements of § 62.1-44.34:9 et seq. (Article 9) and § 62.1-44.34:19 et seq. (Article 11).

Oil Spill Notification

State Water Control Law § 62.1-44.34:19 (Article 11) requires any person discharging or causing or permitting a discharge of oil (petroleum spill or release) to immediately notify the DEQ, the coordinator of emergency services of the locality that could reasonably be expected to be impacted, and appropriate federal authorities. The law exempts facilities (including aboveground storage tank (AST) facilities storing oil) from the notification requirement if:

1. the discharge of oil to state lands is in an amount less than twenty-five gallons,
2. the recordkeeping requirements of subsection C of §62.1-44.34:19.2 have been met, and
3. the oil has been cleaned up in accordance with the requirements of the statute.

In addition to general spills of oil, the law addresses discharges of oil from pipelines, heating oil USTs, farm and residential motor fuel USTs less than 1,100 gallons, and all ASTs. The law does not require reporting of discharges from properly operating vehicles/equipment, from accidental discharges from farm vehicles or noncommercial vehicles, or from regulated underground storage tanks (USTs) addressed under State Water Control Law § 62.1-44.34:8 et seq. (Article 9).

State Water Control Law § 62.1-44.34:9.8 (Article 9) gives DEQ the authority to promulgate regulations necessary to carry out its powers and duties with regard to USTs in accordance with applicable federal laws and regulations. Under this authority, the UST Technical Standard and Corrective Action Requirements Regulation (9 VAC 25-580-10) was issued, which requires owners and operators of these regulated USTs to report suspected and confirmed releases. UST owners or operators do not need to report spills or overfills of petroleum to the environment if:

1. the spill is 25 gallons or less;
2. the spill is cleaned up within 24 hours; and
3. the release does not cause a sheen on surface waters.

For petroleum spills/petroleum storage tank releases at residences and for highway accidents involving a petroleum spill, the PREP Program may accept notification from local officials, emergency response officials or consultants for the RP as meeting the RP notification requirement of the law. Detailed guidance on UST and AST reporting requirements is contained in the Section 2 of the Storage Tank Program Technical Manual.

Waste Permit, Notification, and Reporting Requirements

Hazardous Waste Spills or Releases at Generator and Facility Sites

Hazardous waste generators are required to report any spill of a raw material ***hazardous substance*** if the spill can threaten human health or the environment outside the facility. Generators must make every attempt to cleanup the spilled material and either re-use it for its legitimate intended purpose or dispose of it in accordance with the Virginia Hazardous Waste Management Regulations. The reporting requirements for ***hazardous substances*** are found in federal regulations for CERCLA and EPCRA (see ***Section 2.2 – Federal Requirements***).-

Additionally, a hazardous waste large quantity generator or a treatment/storage/disposal facility that has a spill or release of a regulated ***hazardous waste*** and that is required to activate a Contingency Plan to address the spill must file a report within 15 days of the release to DEQ and other state agencies in accordance with the provisions of that plan. Reporting and contingency plan requirements are referenced under the Virginia Hazardous Waste Management Regulations at 9 VAC 20-60-262 (as adopted by reference from 40 CFR Part 262.34).

A small quantity generator, who generates between 100-1000 kg/month of hazardous waste, in the event of a spill or release of hazardous waste, must:

1. contain the flow of hazardous waste to the extent possible, and as soon as is practicable, cleanup the hazardous waste and any contaminated materials or soil; (40 CFR Part 262.34 (d)(5)(iv)(B) as adopted by reference at 9 VAC 20-60-262) and:
2. in the event of a fire, explosion, or other release which could threaten human health outside the facility or when the generator has knowledge that a spill has reached surface water, the generator must immediately notify the National Response Center (40 CFR Part 262.34 (d)(5)(iv)(C) as adopted by reference at 9 VAC 20-60-262).

Hazardous Waste Transporters

Hazardous waste transporters are required to report spills and releases in accordance with 9 VAC 20-60-490. See link below for specific requirements of the regulation.

(<http://leg1.deq.virginia.gov/cgi-bin/legp504.exe?000+reg+9VAC20-60-490>)

Incidental Discovery of Hazardous Constituents in Soil

Under the hazardous waste program regulations, Virginia does not require reporting incidental discovery of hazardous waste constituents in soil or groundwater identified as a result of a Phase I or Phase II environmental assessment unless it is the result of an improper or illegal disposal of a hazardous waste. Referral to the Voluntary Remediation Program is recommended.

Solid Wastes:

Solid Waste facility permit holders are subject to reporting requirements under 9 VAC 20-80-570. The permit provides specifics reporting instructions that include oral and written notification to DEQ of any noncompliance or unusual condition which may endanger health or environment.

Air Permit, Notification, and Reporting Requirements

DEQ requires air quality operating permits for stationary air emission sources meeting predetermined criteria. Permitting is based on the type of air pollutants to be emitted, the emission rate and annual amount of emissions, and the type of equipment to be operated. Air quality permitting programs used in Virginia include Federal Operating Permits, State Operating Permits and General Permits.

For permitted air sources in Virginia, air pollutant emissions above the emission rates allowed for in the operating permit are considered “excess emissions” and must be reported to the DEQ. Excess emissions can be caused by malfunction of the equipment or control devices, routine startup and shutdown procedures, and during scheduled maintenance.

Reporting requirements for individual facilities and emission units are included in each operating permit and vary from source to source. General requirements for reporting excess emissions can be found in the following regulation sections:

9 VAC 5-20-180 B requires that the DEQ be informed of scheduled maintenance that will result in excess permit emissions at least 24-hours in advance.

9 VAC 5-20-180 C addresses permit reporting requirements for short term operating malfunctions. If a malfunction that may cause excess emissions for more than one hour is discovered during normal operations, the owner is required to notify DEQ “as soon as practicable but no later than four daytime business hours after the malfunction is discovered”. The owner is also required to notify the DEQ when the malfunction has been corrected and emissions have returned to normal. Within two weeks of the event the owner is required to provide a written statement giving all pertinent facts, including the estimated duration of the breakdown.

9 VAC 5-20-180 D addresses permit reporting requirements for plant breakdown. If a breakdown is expected to exist for 30-days or more, the owner is required to provide a written report within 30 days after the start of the failure and semi-monthly thereafter until the problem is corrected. The required information to be included in this report is listed within this citation.

State Laws and Regulations

Air, water, and waste laws and regulations can be found at the following link to the DEQ web page.

<http://www.deq.virginia.gov/regulations/homepage.html>

2.2 FEDERAL REQUIREMENTS

Emergency Planning and Community Right-to-Know

The Emergency Planning and Community Right-to-Know Act (EPCRA) <http://www.epa.gov/swercepp/factsheets/epcra.pdf>, designates 356 extremely hazardous substances that require the reporting of releases to state and local authorities. The Reportable Quantity (RQ) for the extremely hazardous substances is based on the substance's acute lethal toxicity. Under the Superfund law, CERCLA (see CERCLA Overview- <http://www.epa.gov/superfund/action/law/cercla.htm>) requires reporting of a spill or release of a RQ of a hazardous substance. RQs are adjusted to one of five levels: 1, 10, 100, 1,000, or 5,000 pounds based on the particular substance involved. Reporting is required for a RQ release of an extremely hazardous substance. Reports should be made to the:

- State Emergency Response Commission (SERC) and
- Local Emergency Planning Committee (LEPC) established for the location where the incident occurred.

The responsible party may identify the appropriate SERC and LEPC by contacting the EPCRA Hotline at 800-424-9346.

National Response Center

The responsible party must contact the federal government's centralized reporting center, the National Response Center (NRC) if:

1. A discharge of oil reaches surface waters and causing a sheen,
2. A spill of hazardous material meets the Reportable Quantity designation under CERCLA, or
3. A small quantity generator, who generates between 100-1000 kg/month of hazardous waste, has a fire, explosion, or other release that could threaten human health outside the facility or the generator has knowledge that a spill has reached surface water.

To report a release or spill of oil or hazardous material, the responsible party must contact the NRC at <http://www.nrc.uscg.mil/index.htm> or 1-800-424-8802. The NRC is staffed 24 hours a day by U.S. Coast Guard personnel. The caller will be asked to provide as much information about the incident as possible, including:

- Caller's name, location, organization, and telephone number
- Name and address of the party responsible for the incident
- Date and time of the incident
- Location of the incident
- Source and cause of the release or spill
- Types of material(s) released or spilled
- Quantity of materials released or spilled
- Medium (e.g. land, water) affected by release or spill
- Danger or threat posed by the release or spill
- Number and types of injuries or fatalities (if any)
- Weather conditions at the incident location
- Name of the carrier or vessel, the railcar/truck number, or other identifying information
- Whether an evacuation has occurred
- Other agencies notified or about to be notified
- Any other information that may help emergency personnel respond to the incident

3.0 DEQ POLLUTION RESPONSE PROGRAM

The Department of Environmental Quality (DEQ) is responsible for Pollution Response as outlined in the State Water Control Law, the Waste Management Act and the Air Pollution Control Law. The Office of Spill Response and Remediation (OSRR) coordinates the Statewide DEQ Pollution Response Program (PREP). The DEQ Regional Offices carry out day-to-day functions for the PREP. Regional PREP staff is expected to receive and evaluate incident reports and determine the most appropriate course of action for the DEQ. When a report is received, the PREP has a goal of no more than one transfer per call before the complaint information is received and evaluated.

The Virginia Oil and Hazardous Material Response Plan guides the RO staff in their responses. Each Regional Office (RO) identifies staff with special training appropriate to specific emergency response efforts. This includes expertise relating to wetlands, fish toxicity, groundwater remediation, financial assistance, sampling, contingency planning, project management, personnel support, disposal of oily liquids/oily wastes, hazardous waste management and air monitoring. The PREP on-scene responder utilizes these specialties as necessary during a pollution incident. This means that not only must the PREP responder be available and responsive to pollution incidents; key RO staff must be accessible to provide technical, legal, and logistical support as needed. The PREP response is not an independent stand-alone operation; key DEQ resources (air, water, waste, enforcement, and administration) must be available to support the PREP function. Many citizens and non-DEQ incident responders rely on the DEQ, and often their only contact with the Agency will be through the PREP.

The DEQ Central Office (CO) staff provides technical guidance and administrative assistance to the ROs. The CO also provides technical staff to support response efforts of the regions. In the event of a major spill or incident or at the request of the RO, the CO may provide a State On-Scene Coordinator (SOSC) and will provide a contracting official to work with the RO to assist in complying with procurement requirements. In order to maintain statewide coordination during emergencies, OSRR maintains active membership on the EPA Regional Response Team (RRT) and both the Inland and Coastal Area Committees.

It is the professional expertise, judgment, and dedication of the PREP team that makes the program effective.

3.1 REGIONAL PREP RESPONSIBILITIES

Regional Offices are responsible for the following:

1. Providing an easily accessible method for the public to contact DEQ with information/notification of pollution incidents.
2. When requested, providing verbal or onsite assistance to the emergency responder (Virginia Department of Emergency Management (VDEM), Local, and Federal).
3. Ensuring that incident reports of pollution are routed to the proper program within DEQ.
4. Ensuring that misdirected complaints are transferred to the appropriate authority and, in instances of shared responsibility or interest, that other responsible agencies are notified.
5. Documenting the receipt of and appropriate response to incident reports received by DEQ.

6. Establishing a clear channel of communication that provides for early and effective coordination of DEQ's response activities with emergency responders and other key agencies.
7. Observing, directing, or advising in the containment, mitigation, or cleanup of a pollution incident to ensure that there is an appropriate DEQ response to pollution incidents that threaten human health or the environment.
8. Providing information to the responsible party (RP) and others about responsibilities imposed by regulations, potential impact to natural resources, and available response options.
9. Documenting that a pollution incident has been or has not been reported as required by regulations.
10. Assessing whether a reported pollution incident is a potential violation of an environmental law or regulation.
11. Where appropriate, collecting evidence (samples, photos, documents, statements, etc.) to document that a pollution incident occurred or to assess the extent of damage from an incident.
12. Identifying the source and/or RP for an incident.
13. Supporting and implementing compliance and enforcement activities.
14. Documenting the need and authorizing the expenditure of agency-controlled funds and entering into emergency contracts to address a pollution incident.
15. Establish and maintain files for PREP.
16. Providing provisional EPA I.D numbers for hazardous waste transportation.

3.2 CENTRAL OFFICE RESPONSIBILITIES

Central Office is responsible for the following:

1. Providing technical/administrative PREP assistance to ROs as requested.
2. Assisting the ROs in the identification of PREP issues; developing/issuing guidance documents; and updating the PREP Manual.
3. Acting as DEQ Agency representation on the federal and state Regional Response Teams (ROs may also be requested to participate).
4. Identifying and coordinating PREP training activities.
5. Coordinating development, implementation and maintenance of the CEDS PREP module and PREP statewide summary reports.
6. Identifying equipment needs and initiating procurement of equipment.
7. Providing emergency and State Lead contract assistance to the ROs in awarding/managing incident response contracts using Virginia Petroleum Storage Tank Fund or Virginia Environmental Emergency Response Fund.
8. Coordinating with VDEM, Virginia Department of Transportation (VDOT), other State agencies, and local organizations to improve DEQ response capabilities.
9. Coordinating DEQ response to major pollution incidents when such a response is required by the Commonwealth of Virginia Emergency Operations Plan or requested by the RO PREP staff.
10. Conducting periodic review of RO PREP activities and conformance with the PREP Manual.
11. Issuing emergency transportation permits for hazardous wastes.

3.3 PUBLICATION OF PREP PHONE NUMBER

Each RO will have published a non-emergency Pollution Incident Reporting number for the Region in all local phone book blue pages (Government Listing). The number should be listed in the Reference List for Government and other Public Services under Environment. This listing should read:

Pollution Incident Reports

Non-emergency DEQ regional number (8:15am to 5:00pm)
Emergency VDEM 24 hour number (1-800-468-8892)

The number should also be the first listing in the State Government section under Virginia, Commonwealth of: Environmental Quality and should read:

Pollution Incident Reports

Emergency.....VDEM 24 hour number (1-800-468-8892)
Non-emergency.....DEQ regional number (8:15am to 5:00pm)

The DEQ Web page also contains the appropriate phone numbers and e-mail addresses for the public to notify DEQ of pollution incidents.

3.4 RECORDED MESSAGE WHEN DEQ REGIONAL OFFICE CLOSED

After normal work hours and on weekends and holidays, recorded messages on each RO reporting number will give the caller correct instructions for making both emergency and non-emergency reports. Suggested language is as follows:

"DEQ offices are now closed. Office hours are 8:15 AM to 5:00 PM Monday through Friday. If you are calling to report an emergency pollution incident that presents an immediate danger to human health or a significant environmental problem, please call the Department of Emergency Management at 1-800-468-8892. For non-emergency incidents, you should leave a message at the tone or call back during office working hours."

3.5 PREP RESPONSE DURING NORMAL WORK HOURS

During office work hours (8:15 AM to 5:00 PM), DEQ Regional PREP reporting numbers and the Central Office main phone number will normally be answered by staff rather than voice mail. If a report is received by DEQ CO, the information will be taken and immediately forwarded to the RO.

RO staff must be available for emergency calls at all times. The VDEM - Emergency Operations Center (EOC) is provided the RO telephone and pager numbers for contacting the normal work hours PREP duty person. If the EOC has an incident requiring immediate DEQ notification and cannot contact the duty person by telephone during normal working hours, the EOC will page the RO. The RO is responsible for receiving the page and initiating DEQ response to the incident. A cell phone is assigned to the PREP Coordinator to use in the field during work hours. This allows the RO to communicate with and dispatch the PREP Coordinator to a site if necessary.

When messages are left on the Regional PREP reporting number, the message will be addressed no later than the morning of the next business day.

3.6 REGIONAL ON-CALL SYSTEM

After normal work hours PREP maintains a Regional on-call system. Each RO will provide VDEM with a schedule of RO on-call personnel, including names, pager numbers, and home telephone numbers. If there are any changes to the schedule, VDEM will be notified prior to the change occurring. This information will be transmitted by the RO to the VDEM - EOC via their fax number (804-674-2419) when possible or via telephone when fax transmission is not possible.

If the VDEM-EOC has an incident requiring immediate DEQ notification the EOC will page the appropriate RO on call PREP person.

Requirements for DEQ on-call after-hours staff:

1. All on-call staff must be familiar with the procedures contained in the PREP manual.
2. On-call PREP duty person must be able to be reached by pager at all times.
3. On-call PREP duty person will be provided a cell phone for responding to pollution incidents.
4. All VDEM pages/messages to home phones require a call back to VDEM and/or to the number listed on the page within 30 minutes of receipt.
5. When requested, the PREP duty person will provide verbal or onsite assistance to the Emergency Responder (VDEM, Local, and Federal).

3.7 VDEM CRITERIA FOR IMMEDIATE NOTIFICATION OF DEQ

The VDEM-EOC will immediately notify DEQ of incident reports meeting the following criteria:

1. Any discharge of oil to state waters except reports that indicate only a sheen of oil,
2. Any discharge of oil of more than 150 gallons to state lands,
3. Any potential release of cargo from a tank vehicle,
4. Fish kill within state waters,
5. Commercial vessel grounding or collision,
6. Pipeline release,
7. Train derailment with confirmed release or spill,
8. Tire fire,
9. Emergencies reported to VDEM in accordance with the requirements of a DEQ Water, Waste, or Air permit,
10. Local, state, federal emergency responder requesting DEQ assistance.

4.0 POLLUTION INCIDENT INVESTIGATION/ RESPONSE PROCEDURE

The DEQ investigator should not expose himself/herself to hazardous or dangerous situations. An investigator should be able to identify the potential hazards at a spill site. Some spills can involve flammable or explosive material. If an investigator is uncertain about the risks associated with a specific situation, he or she should rely on the advice of emergency response personnel on the scene and stay clear until authorized to enter the area. When in doubt about potential hazards, the investigator should not enter a site.

The investigator should also determine the authority of DEQ to regulate cleanup activities in response to an incident. The purpose of this exercise is to ascertain if DEQ or another agency has primary responsibility for incident response. In many instances, DEQ may share the responsibility with other agencies.

4.1 RESPONSIBLE PARTY CLEANUPS

The investigator should identify the source of the release or spill. The investigator should determine what environmental resources and resource users are at risk. If the source/spiller is identified, the investigator should inform the spiller of the requirements of state law to report and cleanup the spill/release. The investigator should request the spiller's compliance and cooperation. The investigator should be aware that the spiller may already be confronted with the loss of valuable product, damaged equipment, injury, and even death.

The investigator should assess the extent and degree of contamination and ensure that the source has been contained or eliminated and that cleanup is underway. During cleanup, it is important to remember the DEQ is not a cleanup contractor. It is also important to place safety first in all incident response. The spiller should be encouraged to respond to the incident as rapidly as possible to minimize damage to the environment and human health risks. The investigator should also take the necessary steps to ensure that the assessment and minimization of the extent of damage to the natural resources is part of the overall response.

The regional PREP investigator may advise and assist in containment efforts and direct cleanup if necessary. If a local government official or VDEM is on scene, they will retain control of the incident until they determine that the threat to public health and safety has been abated. At that time, control of the incident may be turned over to DEQ or DEQ may become the coordinating agency for the remainder of the response.

4.2 DEQ CONTRACTOR CLEANUPS

If the investigator cannot immediately determine who the responsible party is, or if the person is unwilling or unable to promptly contain and cleanup the spill or release, the PREP investigator may take such action as is necessary to contain and cleanup a pollution incident or threat of a pollution incident, including the engagement of contractors.

If the pollution incident involves a release of oil, the costs of containment and cleanup may be paid from the Virginia Petroleum Storage Tank Fund (VPSTF) or from any federal fund available for this purpose. For a pollution incident that is not oil, the Virginia Environmental Emergency Response Fund (VEERF)

may be used to address the cleanup. See **Section 9.0 - Contracting Procedures** and **Section 10.0 - Cost Recovery** for additional guidance.

4.3 INCIDENT FIELD NOTES

The DEQ staff responding onsite to a pollution incident is responsible for recording information about the incident and any samples collected. Field notes will be used to document the DEQ response and basis for potential cost recovery. The staff person is expected to record information collected at the incident in a bound field notebook (supplied by the Department). All entries will be recorded in indelible ink. Field notes should include at a minimum:

1. Incident Report (IR) number, date, arrival and departure time to and from the site;
2. A general description of the incident including site location and response actions being taken;
3. Environmental impact and potential impact to receptors;
4. The name/identity of the contaminant source(s) (suspected, confirmed, unknown);
5. The names and contact information for the responsible party(ies) including vehicle license plate number for transportation incidents;
6. The names and contact information of other responders and key personnel also at the site (e.g. VDEM, local officials, responsible party, etc.);
7. If field measurements are taken, staff should record at least the following:
 - a. the type/identification number of the meter used and pertinent calibration information,
 - b. the measurement location,
 - c. the time when the measurement was taken,
 - d. the measured value,
 - e. other observations as deemed important by the sampler;
8. If samples are collected, record at least the following information about each sample:
 - a. the reason for sample,
 - b. the type of sample,
 - c. the sample location,
 - d. the time the sample was collected,
 - e. the preservation method (if any),
 - f. field observations as deemed important by the sampler (e.g. stream water had a white cloudy appearance),
 - g. parameter(s) to be tested.

Each page of field notes for an incident should contain the incident report number for the case and be initialed by the investigator and dated. Copies of all field notes must be placed in the appropriate pollution complaint file in the Regional Office.

See **Section 12.0 – Sample Collection** for guidance on sampling different incidents, analysis, chain of custody, and quality control.

4.4 POLLUTION INCIDENT COMPLAINT TRACKING

All pollution incident complaints received by the DEQ shall be entered into CEDS. The following modules of CEDS will be used to track pollution incidents reported to DEQ:

<u>Incident Type</u>	<u>CEDS Module</u>
Storage Tank Releases	Tank Remediation Module
Mobile Source Complaints	Air Check module
All other Incidents	PREP module

Complaints received by PREP that are related to the Tank Remediation and the Air Check modules will be forwarded to the appropriate program and will not be tracked in the PREP Module.

Minimum data elements for all complaints entered into PREP Module are as follows:

- Incident date
- Incident time
- Incident report number
- Type of material released
- Quantity of material released; units
- Quantity of material released in state waters; units
- Receiving waters; if material reached state waters
- Identification of possible receptors
- RP name
- Site city
- Site county
- Case assignment
- Case status

The minimum data elements should be entered into the PREP module at the time the complaint is received, but no later than 10 workdays after receipt of the call. The Incident Reporting Form (See Appendix A) should be used to keep a paper record of incidents reports when the data cannot be entered into the system. More specific requirements for data entry will be addressed as part of the development of the CEDS PREP module.

Often multiple complaints are received for the same pollution incident. Incidents at the original location(s), and due to the original cause(s) or event are issued only one IR# under which the incident is tracked in the PREP module. The “DEQ Incident Summary” field of the PREP module will list all additional complaints for an incident to document notification to the agency.

Recurring incident reports that can be associated with different events are issued a different IR Number for each separate event. Example: A facility reports a sanitary sewage overflow twice in one week due to two separate storm events. These two overflows would be issued separate IR Numbers.

4.5 INQUIRIES AND GENERAL INFORMATION

Occasionally the PREP Program receives inquiries that are not associated with a specific pollution incident. Often these inquiries request information about different government programs or general views/opinions related to regulatory programs or the impact of pollution on natural resources within the Commonwealth. Depending on the nature of the inquiry or general complaint, the PREP Program will either answer the inquiry or refer the person to the appropriate agency or program. Inquiries for general

information (not about a specific incident) will not be tracked in CEDS.

4.6 INCIDENTS THAT REQUIRE IR NUMBERS

Incident reports may be received from local government, state agencies, federal agencies, companies, or concerned citizens. Each incident listed below shall be assigned a pollution Incident Report number (IR#):

1. Non-storage tank release of oil to state waters, lands, and storm drains of the Commonwealth.
2. A release of cargo from a tank vehicle.
3. A fish kill within state waters.
4. A commercial vessel grounding or collision with a confirmed or potential release of oil.
5. A pipeline release.
6. A train derailment with a confirmed release.
7. A tire fire.
8. Complaints related to solid, hazardous and regulated medical wastes.
9. Complaints related to air emission problems.
10. Complaints related to violation of State Water Control Law and its associated water regulations including complaints related to unpermitted discharges or water quality problems.
11. Notifications received by PREP from permittees that are reporting to DEQ in accordance with their Permit requirements. (*See Section 2 - Notification And Reporting Requirements For Pollution*)

The RO PREP staff may also choose to assign an IR# to incidents types not listed above.

4.7 TRACKING CASE STATUS

Within 30 days of entering the pollution report into the PREP module, the assigned Regional DEQ Case Manager must describe how the report was addressed in the “DEQ Incident Summary” field and update the “Case Status” field. The incident summary usually will consist of a brief statement.

The “Case Status” field will be updated based upon the following definitions:

Active Case	Ongoing PREP investigation and/or cleanup activities.
Case Closure	The complaint was within PREP program area jurisdiction, an appropriate program response has been made, and it was followed through to completion. Where the incident requires PREP directed field investigation, or cleanup, case closure occurs when these activities are completed.
No Further PREP Action	PREP determined that the complaint is either: <ol style="list-style-type: none">1. not within DEQ's jurisdiction and has been referred outside of DEQ to the appropriate agency without further DEQ response warranted; or2. does not warrant a response by DEQ (e.g. insufficient information, credibility issues, no significant environmental

issues, etc.).

Section 8.0 – Guidelines For Pollution Incident Referral To Other Programs lists pollution response responsibilities for DEQ, other State agencies, and local governments. This section should be used to forward complaints that require no further PREP action to the appropriate program for follow up and resolution.

On a quarterly basis the PREP Coordinator will review Active Cases in his or her Region to verify that there is still an ongoing investigation or cleanup. The PREP Coordinator will identify Active Cases that require an evaluation of the Case Status and forward this information to the assigned case manager for review and updating of Case Status as necessary.

4.8 PREP CASE CLEANUP REQUIREMENTS

Cleanup Requirements

For investigations and cleanup of spills under the direction of the PREP Program, the assigned Case Manager should use professional judgement to determine cleanup requirements. Cleanup requirements should address the risk of the contamination to impact receptors as well as consider the practicality of removing all contaminated media. Case closure is appropriate at sites where:

1. the source of the spill has been stopped,
2. there is not a significant quantity of material to recover, and
3. the contamination poses little or a low risk of impact to receptors.

For some incidents the case closure requirements may be met without requiring a cleanup. The Case Manager will document the justification for a “no cleanup” determination in the “Incident Summary” field of the PREP module.

RP/DEQ Contractor Cleanup Reports

For cleanups conducted under the direction of the PREP Program, a written report documenting cleanup activities and proper disposal of the spilled material must be provided by the RP or the DEQ cleanup contractor. PREP staff should use Appendix B as a guide for cleanup report or letter requirements.

For petroleum spills less than 150 gallons (*e.g.* motor vehicles and containers) that require cleanup, the Case Manager may waive the written reporting requirement if communications with the RP, the cleanup contractor, or a third party indicate that the cleanup has been completed to the Cases Manager’s satisfaction. The Case Manager will document the communication and completion of the cleanup in the “Incident Summary” field of the PREP module.

4.9 AUTHORIZATION FOR STORAGE TANK REIMBURSEMENT

Costs of cleanup from petroleum storage tank spills that are eligible to be reimbursed from the Petroleum Storage Tank Fund must be authorized with an Activity Authorization Form (AAF). If PREP is directing the cleanup, PREP staff will obtain a PC# from the Regional Remediation Section to fill in on the AAF. Authorization of cleanup activities for spills eligible for reimbursement will be in accordance with **Section 4.0 - Site Activity Pre-Approval Requirements** and **Section 5.0 - Release Response and Corrective Action of the Storage Tank Technical Manual**.

4.10 PREP ENFORCEMENT

The DEQ Enforcement Manual states that violation of statutory or regulatory requirements may be resolved informally or formally. Certain cases can only be resolved using formal methodology (*i.e.* with an administrative or judicial order). The Enforcement Manual provides guidance for DEQ staff to follow in the resolution of violations. The Manual should be followed in the resolution of PREP cases.

In many of these cases an effective immediate step is to use a Request for Corrective Action (RCA) letter as discussed in the Informal Correction section of the Enforcement Manual (Page 2-1). This letter may be completed in the field and will allow the PREP staff to quickly provide written direction to an RP concerning cleanup requirements. Appendix C contains example RCA letters for non-tank oil spills and other types of spills.

In cases where there has been a failure to report or notify DEQ of a pollution incident under the direction of the PREP Program, staff should consult with Enforcement staff before taking any compliance or enforcement action. The PREP program responds to many types of pollution incidents that differ greatly in their impact to human health and the environment. The consequences of failing to report a pollution incident can vary based upon the type of pollution and the relevant statutory requirements. In situations where there has been a failure to report, PREP staff will work with Enforcement staff to assess the specific facts of the case and determine the appropriate enforcement response.

4.11 POTENTIAL CRIMINAL VIOLATIONS

The DEQ Enforcement Criminal Investigation Unit (CIU) investigates possible criminal violations, supports the prosecution of environmental crimes, and coordinates activities with other law enforcement agencies. Knowing violations of state and federal law are felonies and negligent violations are misdemeanors.

Potential Negligent Violations

Simple Negligence

Simple negligence is negligence that would include the omission of proper attention, indifference, willfulness, or failure to do something. It is the “failure to exercise that degree of care which a person of ordinary prudence (a reasonable person) would exercise under the same conditions.”

Criminal Negligence

Criminal negligence is more than simple or ordinary negligence. Criminal negligence is recklessness or carelessness resulting in injury or death; it imparts a thoughtless disregard of the consequences or heedless indifference to the safety and rights of others. As a practical matter, criminal negligence is an action or omission that a reasonable person knows or should have known would cause injury or harm. It can be associated with highly unreasonable conduct or recklessness or an extreme departure from ordinary care. It can be the unreasonable disregard of a known risk that would probably cause harm.

Notification of the CIU by PREP

Any PREP incident that is a result of a potential knowing violation of state/federal law or potential criminal negligence must be reported to the CIU. Appendix D contains the Compliance

Investigations - Notification Routing Form for reporting these incidents. This form may be faxed or e-mailed as follows:

Fax 804-698-4142 Attn. Ralph Mayer or
rjmayer@deq.virginia.gov

In addition, if the incident has a substantial environmental impact, PREP will notify CIU during the incident by contacting Ralph Mayer at the following telephone numbers:

804-698-4272 work phone - during normal work hours or
804-389-5168 cell phone

4.12 PREP INCIDENT CLOSURE REPORTS AND FILE DOCUMENTATION

The PREP responder shall write an after incident closure report and establish a pollution incident file for cases that meet the following criteria:

1. Any reported incident that involves a field response by PREP.
2. Any reported incident that involves expenditure from the Virginia Petroleum Storage Tank Fund or the Virginia Environmental Emergency Response Fund by PREP.
3. Any incident that requires the PREP staff to advise, consult, negotiate with, or direct any state, federal, or local government entity, or responsible party.

Depending on the incident, the incident closure report may be brief, but should be detailed enough to provide an understanding of the incident and its resolution.

The pollution incident file must contain (if applicable) at a minimum:

1. The incident report,
2. All written correspondence sent and received,
3. All contractor reports documenting investigation and cleanup,
4. A narrative report (memorandum) describing actions taken by the DEQ,
5. Documentation of investigative costs including:
 - a. the number of work hours spent on the investigation and associated report writing,
 - b. contractor costs,
 - c. DEQ vehicle mileage,
 - d. laboratory analysis costs, and other related costs,
5. Copies of the field notes,
6. A map of the site (usually a topographic map; a schematic is acceptable),
7. Any photographic evidence of the incident, and
8. Copies of all lab reports.

4.13 OSHA REQUIREMENTS FOR RESPONDERS

Requirements

Safety training requirements for personnel responding to a potentially hazardous pollution incident are addressed in 29 CFR Part 1910.120 promulgated by the Occupational Safety and Health Administration (OSHA). Prior to responding on site to a potentially hazardous pollution incident PREP staff must initially complete the First Responder Operational Level training (16-hour) and annually complete the 8-hour refresher course. In addition, PREP staff who responds 30 times or more per year to a potentially hazardous incident must participate in the DEQ OSHA Medical Surveillance Program. All PREP staff will respond to pollution incidents in Level D personal protection equipment. Prior to entering the incident site PREP staff must check in with the On-Scene Incident Commander.

Medical Surveillance Program

If staff believes there is a need to seek medical attention as a result of an exposure to contamination while at an incident, the employee must notify their supervisor, Human Resources and the Health & Safety Officer of their concerns. If the employee believes immediate medical attention is necessary, the employee should first seek care and then notify their supervisor, Human Resources and the Health & Safety Officer.

It is the responsibility of each Regional Director to ensure that RO PREP staff is complying with the Agency's OSHA policies and procedures.

5.0 REQUIREMENTS FOR DEQ TO MAKE NOTIFICATION

State Water Control Law 62.1-44.15:4 requires DEQ to notify the locality where violations of regulations established under Chapter 3.1 of State Water Control Law pose an imminent threat to the health, safety or welfare of the public. Under this section of the law the Executive Director of DEQ is required to immediately notify the chief administrative officer of any potentially affected local government. Key regulations that require notification include:

VPDES Permit Regulation and associated General VPDES Permit Regulations,
VPA Permit Regulation and associated General VPA Regulations,
VWP Regulation and associated General VWP Permit Regulations,
Sewage Collection and Treatment Regulations,
Discharge of Sewage and Other Wastes from Boats,
Facility and AST Regulation,
UST Corrective Action & Technical Requirements Regulation,
Tank Vessel Oil ODCP & Financial Responsibility Regulation, and
Virginia Surface Quality Standards Regulation,
Virginia Ground Water Quality Standards Regulation.

State Water Control Law 62.1-44.19:6.B requires DEQ to inform local newspaper of pollution discharge information provided to the DEQ, if the Virginia Department of Health (VDH) determines that the discharge may be detrimental to the public health or if the DEQ determines that the discharge may impair beneficial uses of state waters.

These notification requirements were established in state law to ensure that local governments and the public (through local newspapers) are aware of significant incidents that pose an immediate threat to human health and the environment. On a daily basis the PREP program receives incident information related to violations of water regulations and notifications of discharges that exceed permit limitations or have an impact on state waters. Only rarely do these incidents pose an immediate threat or emergency to human health or the environment. Examples of the types of incidents that would require notification include: the structural failure of a lagoon, causing a discharge to state waters; explosive conditions as a result of a gasoline leak; significant erosion from a construction site that has a potential to impact a drinking water intake.

Virginia Department of Health, Locality, and Newspaper Notifications

To meet these requirements of state law, the PREP Program staff will immediately inform the Regional Director whenever staff has reason to believe that a significant incident has or will cause an imminent threat to human health or the environment. The PREP Program will also inform the VDH of the incident for the VDH to determine if there is a public health concern. The VDH should be contacted as follows:

1. During normal work hours (804) 786-1758,
2. Pager (804) 997-2511,
3. After normal work hours - home telephone number of person on-duty,
4. Internet Prepadm@VDH.state.va.us

Should PREP staff be unable to speak with a VDH staff member or confirm a received fax or email message, they should contact a local Health Department representative for the affected locality(ies). The following link contains the VDH memorandum outlining its Emergency response functions:

http://deqnet/docs/main/water/Water_srr/prep/prep_update.pdf

If the Regional Director determines that there is an immediate threat to the health, safety or welfare of the public or if the VDH determines that public health is at risk the Regional Director will direct the staff to:

1. Contact the cities/counties affected, and
2. Contact the DEQ Public Affairs to issue an agency news release.

It is not unusual for the press to have contacted the DEQ prior to the issuance of a press release. When this occurs staff should respond to the press in accordance with the DEQ Media Relation Policy dated December 5, 2003. See link below for policy.

http://deqnet/docs/main/policy/policy_pubaffairs/media_policy.doc

6.0 INCIDENT COMMAND SYSTEM

Developed initially as a system to coordinate fire fighting efforts at large forest fires, the Incident Command System (ICS) is currently the most widely utilized system for management of both emergency incidents and non-emergency events. The ICS has considerable internal flexibility and can grow and shrink to meet differing needs of each incident or situation. Many government agencies and industries have adopted the ICS.

Because of the flexibility and wide use of the ICS, it is especially useful for management of oil spills and hazardous materials incidents. The U. S. Coast Guard and the Environmental Protection Agency have adopted the ICS as part of the National Incident Management System (NIMS). The result is improved coordination of response efforts between different levels of government and the many response agencies and organizations.

Management Activities

The ICS organization is built around five major management activities:

- Incident Command - sets objectives and priorities and has overall responsibility at the incident or event. Certain functions, such as safety, information and liaison, are assigned to command staff officers who report directly to the incident commander.
- Operations - conducts tactical operation to carry out an action plan, develops the tactical objectives and organization, and directs all resources.
- Planning - develops the action plan to accomplish the objectives, collects and evaluates information, tracks resource status, and documents the response efforts.
- Logistics - provides support to meet incident needs, provides resources and all other services to support the incident.
- Finance/Administration - monitors costs related to the incident, provides accounting, procurement, time recording, and cost analysis services.

Flexibility

The adaptability of the ICS stems from the ability to expand or contract the incident response organization as necessary. Small, procedurally driven incidents may be managed by a single person, the Incident Commander. Large, complex incidents require the functions of ICS to be set up as separate sections, which may be further subdivided as the incident evolves. The basic principle that allows the ICS to expand and contract smoothly during an incident is that the person at the top is responsible for the incident until the authority is delegated to another person. Span of control is maintained at three to five persons per supervisor. Smooth shift changes are fostered by established change-of-shift procedures.

Unified Command

The command structure of the ICS also can be adapted to multi-jurisdictional as well as multi-command authorities. Authority for large oil spills is shared between a Federal On-Scene Coordinator (FOSC), a State On-Scene Coordinator (SOSC) and the responsible party (RP) and forms the Unified Command. This organization allows for the maximum coordination of spill response activities and avoids duplication of efforts while providing for the exercising of authority of organizations that have jurisdiction. The Unified Command sets the overall incident objectives and guides and approves the incident action plan. The members of the Unified Command retain their respective authorities, but work to resolve issues in a

cooperative fashion so maximum attention is given to the response efforts. See ***Section 7.0 - Guidelines For Specific Incident Types*** for more detailed guidance on the ICS as it relates to oil and hazardous material spills in Virginia.

7.0 GUIDELINES FOR SPECIFIC INCIDENTS

7.1 OIL SPILLS

Local Government

The local government has primary responsibility for the safety and welfare of its citizens. The first responder protects the public while minimizing any impact to the environment. DEQ relies heavily on the local responders for initial containment and for confirmation of the specifics of the magnitude of the spill which will be used to determine what further state action may be necessary. Local government is also responsible for the protection of the environment and the water resources within its jurisdiction.

Federal Government

The responsibility for federal response to an oil pollution incident within the Commonwealth is shared by the United States Coast Guard (USCG) and the Environmental Protection Agency (EPA). The geographical boundaries for each area of responsibility are defined within the Federal Region III Oil and Hazardous Substances Response Plan. The EPA has jurisdiction over inland oil spills, roughly anything west of Interstate 95; and the USCG has jurisdiction over spills affecting the coastal waters of the Commonwealth, or roughly anything east of Interstate 95. Coordination and direction of federal response at the scene of an oil spill is accomplished through the Federal On-Scene-Coordinator (FOSC). The FOSC may call upon the Regional Response Team (RRT), Special Forces, or response teams composed of other federal agencies to provide technical and scientific assistance and guidance for the response effort. More specific information on the deployment of the RRT is contained in the National Contingency Plan (NCP) and the Regional Contingency Plan (RCP). VDEM provides a staff member to represent the Commonwealth on the Standing RRT and DEQ provides a staff member for the Incident Specific RRT that is convened for oil spills.

DEQ/State

After any emergencies have been mitigated, the DEQ is the lead state agency for response to an oil spill affecting state waters, lands, and storm drains of the Commonwealth. DEQ will provide assistance as necessary to local and federal responders to oil spills. In response to a major oil spill, DEQ will appoint a State On-Scene Coordinator (SOSC) who is responsible for coordinating and utilizing the expertise and support of other state and federal agencies to effectively manage the cleanup and remediation activities. Disposal of wastes from the cleanup effort is coordinated within the DEQ Waste Division. The other state agencies along with a list of their tasks are found in Part V of the Virginia Oil and Hazardous Materials Emergency Response Plan. Other state agencies not identified in the Plan can be assigned tasks appropriate to their area of expertise as required by the situation.

If PREP receives a call concerning a discharge of oil to state waters, lands, or storm drains, the investigator must obtain as much information as possible. In particular, the investigator should try to obtain information on the source of the discharge and if the discharge has or is threatening state waters.

If the oil discharge incident is related to a storage tank (regulated or unregulated), the incident should be referred immediately to the Regional Remediation Program for directing investigation and cleanup activities and authorization for reimbursement.

7.2 HAZARDOUS MATERIALS

Local Government

Local Government is responsible for minimizing the occurrence of a release or threats of release through the enforcement of state and local codes and ordinances. They are also responsible for developing local hazardous materials response plans and the capability to implement these plans to respond promptly to a release or pollution incident from facilities, vehicles, or vessels they operate, supervise, or govern.

Local government is responsible for ensuring its response personnel (police, fire, rescue, etc.) are aware of state and local hazardous materials response plans and have prepared Standard Operating Procedures (SOPs) to support their implementation. The SOPs include response procedures based on initial evaluation and assessment of hazardous materials identified in their jurisdiction through the reporting requirements of the Superfund Amendments and Reauthorization Act, Title III of 1986 (SARA Title III)

Federal Government

There are numerous federal agencies that have responsibilities established by statute, executive order, or presidential directive that may be relevant to federal responses to hazardous materials incidents. These agencies, their responsibilities, and authorities are enumerated in the National Contingency Plan (NCP). Generally, the USCG will be the Federal On-Scene Coordinator (FOSC) if the spill originates from a vessel, and the EPA in all other instances. When the magnitude of the incident requires federal involvement, federal response will be in accordance with SARA Title III and CERCLA, based upon guidance contained in the NCP and the Region III Contingency Plan.

State/DEQ

The Department of Emergency Management (VDEM) is the lead state agency for emergencies caused by hazardous materials. Local governments will respond to the emergency using locally available resources to restore the situation to normal. State assistance is requested through the VDEM Virginia Emergency Operations Center if local resources are not adequate. Response actions are based on the nature of the incident, hazards involved, and the capability of the local jurisdiction. VDEM is the lead state agency in responding to requests for assistance to emergency hazardous materials incidents. Other state agencies will be involved as the incident is being investigated. VDEM is the primary coordinating agency for other state agencies emergency response to hazardous material incidents.

If PREP receives a call concerning chemical or hazardous material spills, obtain as much information as possible. The investigator must obtain information on the nature of the spilled material including the trade or chemical name, DOT placard number, or any information that will aid in identification and hazard assessment. The investigator must not risk his or her personal safety in responding to chemical/hazardous spills or any pollution complaint. In instances where unknown contaminants, hazardous chemicals, explosives, and flammables are involved, (particularly if one is not familiar with the material), the investigator shall stand clear and call the Department of Emergency Management. The local Director of Emergency Response, the VDEM, and the DEQ Waste Division are the appropriate agencies to direct containment, cleanup, removal and disposal.

7.3 DEQ, VDOT, and VDEM COORDINATION of TRANSPORTATION-RELATED INCIDENTS

Transportation related pollution incidents can range from the hazardous material tanker truck spill causing major public health, safety, environmental, and transportation problems to the 5-gallon container of used oil abandoned on the side of the road. Since most incidents, no matter what the scale, have the potential to impact the environment, it is important that PREP staff work closely with first responders (e.g. local fire departments, state and local police), VDEM, and the Virginia Department of Transportation (VDOT) to ensure that these incidents are handled appropriately and in an efficient manner. Although the following guidelines represent actions to be taken on transportation systems maintained by VDOT, the guidelines can be applied to other organizations such as localities that have responsibility for road maintenance within their jurisdiction.

Transportation Spills

Spills caused during transport related accidents are the most frequently occurring pollution incidents and addressing such incidents typically involves more than one state and/or local agency or organization. VDOT is normally on the scene soon after the incident is reported by the first responder, and often deploys equipment and materials to limit the spread of contamination thereby limiting environmental impact. PREP's initial responsibility is to provide assistance to first responders in order to minimize the potential environmental impacts of actions taken by the responders for public safety. VDEM typically becomes involved at the request of the local response organization to provide technical assistance. VDOT and/or VDEM will provide PREP specific information on the location, responsible party, spill and receptor information (See Appendix E - VDOT Roadside Incident Information Report). While it is not necessary for the PREP staff to be onsite for every roadside pollution incident, it is important that staff be available to provide direction and support. The timely response and availability of PREP staff is critical to limiting the impact of contamination to the environment and to ensure that traffic delays are minimized. For minor incidents, the local first responder can (often with VDOT assistance) generally handle the incident and environmental issues; however, PREP staff should be available to provide timely verbal assistance. For more significant pollution incidents or when requested by the first responder, VDEM or VDOT, PREP will provide verbal and/or onsite assistance.

PREP should notify the Virginia Department of Health if downstream water supplies may be affected. The Virginia Department of Health will notify the operators of public water intakes downstream. If DEQ is aware of industrial water intakes, PREP should also notify officials at the industrial facility.

Any necessary lane closures and/or traffic control must be performed in accordance with the Federal Highway Administration Manual for Uniform Traffic Control Devices. Any requests for assistance should be made to the local VDOT Residency during work hours or the VDOT Transportation Emergency Operations Center after hours at (804) 371-0891.

Responsible Party Cleanups

With most roadside incidents involving a vehicular accident, there is a responsible party (RP) that is capable and willing to conduct any necessary cleanup. Where the RP does not take immediate action to initiate cleanup activities PREP will coordinate with VDOT and VDEM to determine the appropriate schedule for the RP to deploy a cleanup contractor to the site and complete the cleanup/restoration. DEQ

will advise the RP that if this schedule is not met DEQ will take further enforcement action. DEQ will also inform the RP that DEQ will:

1. conduct the cleanup, and
2. seek cost recovery for all cleanup costs incurred by the Commonwealth, including staff and administrative time.

Where the RP refuses to act based upon verbal direction, PREP staff will initiate enforcement in accordance with the Enforcement Manual. In many of these cases an effective immediate step is to use a Request for Corrective Action letter as discussed in the Informal Correction section of the Enforcement Manual (Page 2-1). This letter may be completed in the field and will allow the PREP staff to quickly provide written documentation to the RP concerning responsibilities for the cleanup. Appendix C contains example letters for non-tank oil spills and other types of spills.

At transportation incidents there are a number of potential RPs that may be identified for the cleanup. In cases where an RP does not accept responsibility for the cleanup, RPs should be notified of their responsibility to cleanup spills in the following order:

<u>Fuel Tank Ruptures</u>	<u>Cargo Spills</u>
1. company of the vehicle driver	1. company of the vehicle driver
2. truck insurer	2. truck insurer
3. truck owner	3. truck owner
4. cargo shipper	4. cargo shipper
	5. cargo recipient

Notification should be made irrespective of which party appears to be at fault for the accident in multi-vehicular incidents.

Abandoned Containers and Materials

Abandoned containers and materials often result from illegal disposal activities or unintentional losses of cargo. While responsibility for the proper disposal of such material is with the generator and/or transporter of the material, most often the responsible party cannot be determined. Consequently, if the materials are deposited on state rights-of-way, the Commonwealth, through collaborative efforts of the DEQ, VDOT, and VDEM, will assure that such materials are properly characterized and disposed. Actions taken in accordance with the following procedures shall constitute concurrence of DEQ that VDOT has properly identified the waste in accordance with 40 CFR Parts 261 and 262.11 and therefore case-by-case concurrence is not required. Since VDOT is acting on behalf of the Commonwealth, no fees shall be assessed to, or biannual report required of VDOT when addressing abandoned containers and materials

When abandoned containers or materials are discovered on VDOT rights-of-way, VDOT will notify the DEQ and VDEM and provide readily available information such as descriptions of the materials, the condition of the containers, and the potential receptors in the area. As appropriate, VDOT will request investigation by the State Police and/or assistance from VDEM or DEQ to determine the RP.

Where abandoned containers or materials could potentially be classified as hazardous waste, the VDEM Hazmat Officer will provide field screening to determine if the material is hazardous, not hazardous, or requires further characterization. Based upon the physical and chemical nature of the abandoned material, the VDEM Hazmat Officer will determine appropriate screening tests.

The following screening guidelines, when used in conjunction with other available information such as container markings, odor, or visual characteristics, will be used to determine if an unknown material is a potential hazardous waste:

Toxic Vapors Screening: A relative response value over 100 on either a PID or OVA shall provide preliminary indication of a hazardous waste, which will require additional characterization before the material may be transported.

Ignitable/Flammable Vapors Screening: A CGI instrument value within the "explosive" range for the calibrating gas shall provide a preliminary indication of a hazardous waste.

Reactivity Screening:

A small amount of the material is placed in a test tube or other suitable testing device and subsequently, a small amount of distilled water is added to the testing container. The presence of effervescence, heat generation, or other unstable reaction is a preliminary indication of a hazardous waste (D003). A CGI, PID or Colormetric test may also be used for air monitoring over the tube to obtain additional information.

A small piece of paper (approximately 3x5 inches) is folded into a fan, a small amount of the material is added to the fan and one corner of the paper fan is lighted and the flame is observed. A jet-like flame indicates nitrated compounds and an abnormally colored flame indicates that the material may be reactive.

Corrosive Wastes Screening:

Liquid: If the material is aqueous in nature, a pH reading of less than or equal to 2 or greater than or equal to 12.5 shall be preliminary indication of a hazardous waste (D002 corrosive).

Solid: A RCRA corrosive waste cannot be solid in its physical form. No corrosive hazardous waste screening is necessary for solids.

Lead Screening: A lead swab test with a value of 100 ppm for solid material and 5 ppm for liquids will be a preliminary indication of a hazardous waste.

Pesticides Screening: An Organophosphate and Carbamates test with a value showing presence will be a preliminary indication of a hazardous waste.

Radiation Screening: VDEM Hazmat Officer will determine the radiation level that should be considered radioactive. Although radioactive material is not a hazardous waste, the Bureau of Radiological Health will be contacted for assistance on proper handling and disposal.

If the results of the field screening indicate that the material is not a hazardous waste, VDOT will take the material to an appropriate solid waste or other non-hazardous waste disposal facility. If the field screening indicates a potential hazardous waste, DEQ may authorize use of the Virginia Environmental Emergency Response Fund to dispose of the material (See below: Use of VPSTF and VEERF for Unknown or Unwilling Responsible Party Cleanups). DEQ will make a timely determination of VEERF funding applicability following notification or discovery of the pollution incident. If DEQ determines that use of the Fund is not appropriate, VDOT or VDOT contractors will dispose of the potential hazardous waste.

If field screening of the unknown material indicates the material requires further characterization to determine if it is hazardous VDOT or its contractor, at its sole discretion, may move the material/container:

1. to an area within the right-of-way that does not pose a hazard or impediment to transportation, or
2. to a VDOT maintenance facility pending the further characterization.

Irrespective of the ultimate waste characterization, VDOT may use state forces or employ other transporters that do not necessarily carry a hazardous waste transporter license to move the unknown material. Irrespective of the ultimate waste characterization, the VDOT maintenance facility will not be considered a hazardous waste management storage or transfer facility as a result of temporarily storing this unknown material pending characterization. Based upon the further characterization, VDOT will dispose of the material at an appropriate disposal facility according to regulatory requirements. For any material taken to a VDOT facility that is subsequently determined to be a hazardous waste, VDOT will request and DEQ will provide an EPA provisional ID number specific to the incident.

When VDOT reports incidents of repeated abandoned containers in the same area to the DEQ, PREP staff will take appropriate investigative action and as necessary, coordinate with state /local police.

If local authorities make a declaration of emergency and direct that abandoned materials be managed as hazardous waste, regardless of the information or analysis described above, DEQ will consider the local authority declaring the emergency to have assumed full generator responsibilities for the waste. The generator is responsible for remediation and subsequent management of the waste in accordance with the Virginia Hazardous Waste Management Regulations. Failure of local authorities to declare an emergency does not necessarily reflect a situation that would preclude VDOT, VDEQ or VDEM from legitimately performing emergency procurement for necessary support services.

Use of VPSTF and VEERF for Unknown or Unwilling Responsible Party Cleanups

In cases where the RP is unknown or unwilling to respond to a pollution incident, the Virginia Petroleum Storage Tank Fund (VPSTF) may be used to fund cleanup of oil pollution incidents. Similarly the Virginia Environmental Emergency Response Fund (VEERF) may be used to fund cleanup of hazardous material incidents.

For oil spills where the RP is unknown or unwilling to conduct the cleanup, DEQ will provide cleanup and disposal of oil when there is:

1. recoverable free product,
2. a significant quantity of saturated/impacted soil (>1 Ton), or
3. the contamination poses a risk to a receptor (e.g. well, spring, sinkhole, surface water, basement, and underground utility).

For non-petroleum-related hazardous materials DEQ will provide cleanup and disposal activities where the hazardous material:

1. poses a substantial threat to human health and safety or the environment; or
2. failure to undertake corrective action poses a significant increased threat to human health or the environment.

The PREP staff may use a State Lead Contractor (oil incidents) or an emergency response contractor (oil/hazardous substance incidents) to perform DEQ-required cleanup and disposal tasks. Using information provided by VDOT and/or VDEM and working in conjunction with VDOT and/or VDEM, the PREP staff will develop a scope of work that meets DEQ cleanup requirements. The scope of work should include the restoration of the contaminated area including restoring the original grade and seeding the area. PREP will coordinate with VDOT to determine restoration requirements. For smaller cleanups, DEQ may utilize VDOT onsite personnel to oversee cleanup contractors and ensure that cleanups are being conducted according to a DEQ agreed-upon scope of work. The PREP staff must verbally approve any onsite change orders to the authorized scope of work. When VDOT onsite responders are acting in the capacity to provide oversight to a DEQ State Lead contractor, VDOT will provide DEQ with a short written account documenting that the cleanup work was performed according to the DEQ agreed-upon scope of work. This documentation will be used by the PREP staff to authorize payment to the contractor. The PREP staff will coordinate with VDOT and VDEM to establish expectations for when cleanup of smaller spills should occur and communicate the schedule, as necessary, to the local response organizations.

Section 9.0 – Contracting Procedures contains detailed information on DEQ contracting procedures and delegation of authority for authorizing use of the Funds.

Localities Seeking Reimbursement from VEERF

To be eligible for VEERF reimbursement for cleanup and disposal of abandoned materials, a locality must provide written documentation or reports declaring the emergency actions and supporting cost documentation. DEQ will also require similar documentation and/or reports from local authorities when other agencies or contractors seek VEERF claim reimbursement based on a declaration of emergency by local authorities.

VDOT Cleanup to Restore Operation to the Transportation System

For oil and/or hazardous material incidents where the DEQ determines that a cleanup is not necessary, VDOT may take whatever actions it feels is necessary to restore the operational function of the transportation system. If the local response organization disagrees with the scope and/or timing of any VDOT response activities, PREP and/or VDEM will intervene as necessary on behalf of VDOT to re-establish the Commonwealth's required response actions.

7.4 CHEMICAL COUNTERMEASURES AND SORBENTS

Chemical Countermeasures

The first line of operations for surface water oil spill cleanup is mechanical countermeasures such as booms and skimmers. However, when mechanical countermeasures are inadequate and oil threatens (or continues to threaten) the public interest or the environment, other response countermeasures may be considered. Chemicals applied to the spill can alter the properties of the oil to facilitate cleanup (e.g., surface washing agents, solidifiers, etc.). These products may also be used to protect sensitive areas as part of a strategy approved by the Unified Command (e.g. FOSC, SOSC, and RP approval of the application of dispersants at sea). Use of chemical countermeasures on an oil spill does not change the spiller's liabilities as stated in § 62.1-44.34:18 of Article 11.

The National Oil and Hazardous Substances Pollution Contingency Plan (NCP) authorizes the FOSC (either EPA or Coast Guard) to direct and coordinate response efforts at spills affecting navigable waters.

These efforts include defensive actions taken as soon as possible to prevent, minimize, or mitigate threats to the public health, welfare or the environment of the United States. The response may include the use of chemicals and other materials to restrain the spread of the oil and mitigate its effects (40 CFR § 300.310) and to ensure a timely, effective response that minimizes adverse impacts to the environment (40 CFR § 300.317). The FOSC, with concurrence from the state and the RRT (Regional Response Team) and in consultation with natural resource trustee agencies such as National Oceanic & Atmospheric Administration (NOAA) and Department of Interior may authorize the use of chemical or biological agents listed on the NCP National Product Schedule. Virginia is party to an RRT III Memorandum of Agreement which prohibits the use of dispersants within the Chesapeake Bay, its tributaries and inland waters. More information about chemical countermeasures and a selection guide on the uses and limitations of specific products in various environments is available at the following link:

<http://www.uscg.mil/lantarea/rrt/rcp/Policy/SelectionGuide/SGOverviewindex.html>.

Section 311(d) (2)(G) of the federal Clean Water Act requires EPA to prepare a schedule of dispersants, other chemicals, and other spill mitigating devices and substances that may be used in carrying out the NCP. The National Product Schedule (NPS) is a list of chemical or biological products that have met the submittal requirements for effectiveness and toxicity data. A listing on the NPS does **not** mean the product is recommended or endorsed by EPA for use on an oil spill. In fact, some products on the NPS are toxic to certain species or may not be effective for use in particular situations. Virginia does not maintain a separate list of acceptable products. To access information on the NPS, contact the NCP Information Line at (703) 603-9918 or <http://www.epa.gov/oilspill/ncp>.

Authorization for use of chemical countermeasures is not necessary if products are used to mitigate the effects of a spill to protect human life and safety. The fire departments using such products in an emergency, however, are obligated to notify DEQ and the NRC and to take practical steps to minimize runoff to state waters. Timely notification will assist DEQ staff in evaluating the threats to downstream water users.

Authorization is also not necessary if the products are used in primary or secondary containment areas that can be cleaned and the material fully recovered. This could include concrete berms or an enclosed wastewater drainage system with no access to state waters. Many products casually referred to as dispersants are in fact surface washing agents intended for use in these types of settings. Sales representatives for these products have been known to market these products to fire departments and hazmat teams with the statements that they are EPA “approved” (i.e., on the NPS), biodegradable, and neglect to mention (or are unaware of) the requirement to contain the effluent following their use.

Sorbents

Sorbents are essentially inert and insoluble materials that are used to remove/recover oil or hazardous substances from water or land. Sorbents work through *adsorption* and/or *absorption*. In *adsorption* the material to be recovered *adheres* to the sorbent material on a molecular level as with water adhering to a glass surface. In *absorption* the material to be recovered is *absorbed* through capillary action as with a sponge. The capillary action of absorption is also a function of the adsorptive nature of the absorbing material and the material to be recovered. Sorbent materials may use a combination of the adsorption and absorption processes

Sorbent materials are generally manufactured in particulate form for spreading over the spill as sheets, rolls, pillows or booms. Loose material may also be available. Sorbent materials may be organic materials (e.g., peat moss, cellulose fibers, corn cobs, chicken or duck feathers), mineral compounds (e.g.,

volcanic ash, perlite, vermiculite, zeolite), or synthetic materials (e.g., polypropylene, polyethylene, polyurethane, polyester). Whatever the material, it must be recovered and disposed of properly. “New and improved” sorbent materials must be evaluated to make certain they are effective and that they don’t sink to the bottom of the water body where the material can not be recovered.

Unless a sorbent material is treated with a chemically reactive substance or biological additive it is not required to be listed on the NPS. The NCP Information Line at (703) 603-9918 may be contacted for product specific information.

7.5 IMPROPER OIL DISPOSAL AND DUST CONTROL

Article 11 prohibits the discharge of oil into or upon state waters, lands, or storm drain systems. The statute does not provide any exemption for minimal quantities, but a full investigation of each reported violation of Article 11 would consume considerable manpower. Therefore, some measures must be undertaken to minimize the time expended for minor incidents, such as those involving the disposal of waste motor oil. If the name and address of a person suspected of improperly disposing of waste oil or applying oil for dust control is known, the Regional Office (RO) should send an Informal Correction Letter as discussed in the Informal Correction section of the Enforcement Manual (Page 2-1). This letter should be worded to inform the RP that the reported actions are a violation of state law, and should be stopped. If a second report is received, the RO should investigate the incident, and a full report should be filed. Visual confirmation of the disposal/application is necessary for the Office of Enforcement to initiate action for an intentional pollution incident. If an oil disposal/dust suppression incident is handled by means of a letter with no field inspection, a copy of the Informal Correction Letter and a topographic map delineating the approximate area (if practicable) of the incident are sufficient to close the file.

7.6 INDUSTRIAL FACILITY

Upon receiving a report of an industrial waste pollution incident at an industrial facility, the investigator should notify the RO Compliance and Monitoring section, the RO Permit section and the Virginia Department of Health (VDH), if downstream water supplies may be affected. The VDH will notify operators of public water intakes downstream. VDH is not tasked with notifications to operators of industrial water intakes. If there are industrial water intakes downstream of the incident that may be affected, PREP should notify officials at industrial facility. In instances where an acute water quality problem may develop as a result of the pollution incident, a regional investigation should be conducted.

7.7 ANIMAL WASTE

Upon receiving a complaint of an animal waste pollution incident, the investigator should obtain as much information as possible and determine if the facility has a VPDES or Virginia Pollution Abatement certificate for manure storage. DEQ investigates animal waste pollution incidents associated with permitted facilities. Upon arriving at the facility, the investigator should notify the owner of his or her presence and ask permission to enter; locate the suspected pollution incident site; note the types of animal and approximate number; and consult with the facility owner or operator and instruct the individual to stop the pollution incident. The investigator should document all investigative findings in a field notebook, collect appropriate samples when necessary, and take photographs to further document the investigation. Notify the Regional Animal Waste Section of the pollution incident. A facility that causes water quality problems may be required to obtain a permit even though the operation does not meet the normal permit criteria.

The Virginia Department of Agriculture and Consumer Services (VDACS) investigates animal waste

incidents where a permit does not exist. Cases at unpermitted facilities that do not demonstrate a significant water quality problem may be forwarded to VDACS for follow up under the Agricultural Stewardship Act.

7.8 SILTATION/EROSION

The DEQ has a Memorandum of Understanding with the Department of Conservation and Recreation, Division of Soil and Water Conservation, which establishes a procedure to notify local authorities to resolve siltation and erosion complaints. All Virginia localities have adopted erosion control ordinances to address sedimentation resulting from subdivision, industrial and commercial development activities. If local authorities cannot obtain a solution, then the Division of Soil and Water Conservation will attempt to resolve the complaint. The most direct involvement by the DEQ in sediment and erosion problems is when a fish kill occurs. If a fish kill is reported, then the normal fish kill procedures, both for taking the report and for investigation, should be followed. For routine sedimentation/erosion reports, the complainant should be directed to the appropriate local government; in general, to the local administrator or utilities engineer. If the individual has already contacted the local government and feels that the problem was not adequately addressed, he should be referred to the Department of Conservation and Recreation, Division of Soil and Water Conservation.

7.9 STREAM DREDGING AND FILLING

Any in-stream work that affects the physical, chemical or biological properties of state waters requires approval from the Virginia State Water Control Board in the form of a Virginia Water Protection (VWP) Permit. This activity may also require approval from the US Army Corps of Engineers via a nationwide or individual permit and permission to use a state-owned bottomland from the Virginia Marine Resources Commission.

Activities that are regulated include dredging and filling, excavating, gravel removal, bank or shoreline stabilization, stream channelization, and bridge and culvert construction. If a complaint is received involving any of the aforementioned activities, the investigator should try to obtain the following information:

1. the type of work being done;
2. who is doing the work – including all names, addresses, and phone numbers (including those of the contractor if the work has been contracted); and
3. a precise description of the location.

This information should be forwarded to the Regional VWP Permit staff for follow up, or to Central Office VWP Permit staff for projects that may involve the Virginia Department of Transportation. While the Virginia Water Protection Permit staff will initiate follow up actions on these matters, the PREP investigators may wish to be involved in site visits.

7.10 WETLANDS

The Regional Virginia Water Protection (VWP) permit staff generally investigates incidents involving wetlands. Exceptions to this include incidents involving VDOT, which are investigated by Central Office VWP staff. DEQ regulates most activities that occur in a wetland (filling, dumping, draining, ditching, excavating, etc.); therefore observations of such activities occurring possibly without a permit should be reported to VWP staff in the RO. Investigations and subsequent action on wetland incidents may also

necessitate the involvement of the Virginia Marine Resources Commission, local Wetlands Boards, and the U. S. Army Corps of Engineers. Complaints about wetlands may include dredging or filling of wetland areas, trash dumping or destruction of the vegetation. The CO VWP staff should be contacted for guidance if questions on wetland matters arise.

7.11 REGULATED MEDICAL WASTE

PREP personnel should screen complaints concerning mismanagement of Regulated Medical Waste (RMW). Only legitimate complaints should be forwarded to Solid Waste staff for further investigation. Investigations and subsequent compliance/enforcement actions related to violation of RMW Regulations should be lead by the solid waste staff in accordance with established procedures. The following information is provided to assist PREP staff with screening complaints.

RMW is defined by characteristic or listing. In general characteristic RMW includes any discarded materials suspected by the health care professional in charge as being capable of producing an infectious disease in humans. **When discarded, RMW is typically packaged in red bags and/or labeled with a biohazard symbol.** Listed RMW generally includes:

1. Discarded cultures, stocks, specimens, vaccines, & other associated items that contain organisms likely to be pathogenic to humans. It includes discarded etiologic agents and wastes from the production of biologicals & antibiotics likely to have been contaminated by organisms likely to be pathogenic to health humans.
2. Human blood, human body fluids, and items contaminated with either.
3. All human anatomical wastes and human tissues, organs, or body parts.
4. Sharps likely to be contaminated with organisms that are pathogenic to healthy humans and all needles, syringes with attached needles, suture needles, and scalpels including sharps generated through veterinary practice.
5. Animal carcasses, body parts, bedding and related wastes when intentionally infected w/ organisms pathogenic to healthy humans for the purposes of research.
6. Residue or contaminated soil, waste or other debris from the cleanup of a RMW spill.
7. Any solid waste contaminated by or mixed with RMW.

Total or partial exclusions are outlined in 9 VAC 20-120-130. Notable exclusions include:

- Domestic sewage & mixtures managed through POTW system(s) or septic systems. (130.B.1 & 2, 130.C.2)
- Human remains used for medical examination by licensed physician or dentist. (130.B.3)
- Human remains properly interred (or in preparation for interment) in a cemetery by a licensed funeral director or embalmer. (130.B.4)
- Dead or diseased animals subject to VDACS requirements. (130.B.5)
- Meat & other food discarded due to spoilage. (130.C.1)
- Garbage, trash, and sharps (except from professional health care services provided on the premises) generated at residences, hotels, motels, campgrounds, ranger stations, etc. Sharps generated from non-professional health care may be disposed of in normal household waste provided they are placed in a puncture resistant container and labeled “Do Not Recycle – Medical Sharps” or managed in accordance with a local “safe sharps” program before being mixed with other wastes & disposed. (130.C.2)
- Used personnel hygiene products (diapers, tissues, sanitary napkins, etc unless

- determined by health care professional to be a RMW). (130.C.3)
- Discarded items when empty: urine collection bags/tubing, suction canisters/tubing, solution bags/tubing, colostomy bags, etc; unless regulated by 16VAC25-90-1910.1030 (130.C.4)
- Discarded items: urinary catheters, suction catheters, IV spikes, nasogastric tubes, oxygen/ventilator tubing, enema bottles, thermometer probe covers, bedpans/urinals, etc. unless regulated by 16VAC25-90-1910.1030. (130.C.5)
- Bandages gauze, or cotton swabs, & other absorbent materials unless saturated or would release human blood or human body fluids in a liquid or semi-liquid state when compressed. Includes items caked or dried with human blood (e.g., can release flakes or particles when handled). (130.C.6)

Specific requirements concerning transportation, storage, or disposal of RMW are outlined in the RMW Regulations. PREP staff should refer these inquiries to the Solid Waste staff or may consult the regulations for further information concerning the issue.

7.12 RADIOLOGICAL INCIDENTS

Upon receiving a report of a spill involving radioactive material, the investigator must contact the Virginia Department of Emergency Management. The Department of Emergency Management will relay the information on the spill incident to the Bureau of Radiological Health of the Virginia Department of Health (VDH). Under the State Radiological Emergency Response Plan, the VDH will conduct an assessment to determine actual off-site radiation distribution to refine the projected dose. Based upon this assessment, VDH will recommend protective actions to be taken. VDH will evaluate the radiological situation on a continuing basis until the radiological emergency is over. Under the plan, the VDH will task other State agencies to provide radiological monitoring and furnish appropriate clothing, dosimeters, and monitoring equipment. The VDH will provide technical guidance and assistance relative to the actions required as indicated by the situation.

The State Radiological Emergency Response Plan requires DEQ to collect water and fish samples after qualified representatives from the Bureau of Radiological Health have monitored the area and determined that radiation levels are acceptable to the general public. The DEQ will collect samples only when radiation levels are acceptable to the general public.

The State Radiological Emergency Response Plan specifically requires that the DEQ:

1. Conduct and provide air quality monitoring from its existing air monitoring network as requested.
2. Provide assistance in collection and analysis of meteorological data.
3. Provide a decision making official at DEQ to be in continuous contact with the VDEM-EOC.

When radiation levels are acceptable to the general public, DEQ is also required to:

4. Collect water samples from rivers and lakes located within the ingestion EPZ (Exposure Pathway Zone) for assessment.
5. Collect fish samples from waters adjacent to the incident site for assessment.
6. Assist the VDH in radiological monitoring and accident assessment.

7.13 RADON

Radon calls should be referred to the Virginia Department of Health or the VDH Radon web site <http://www.vdh.virginia.gov/rad/RHP-RADON.asp>. This web site provides educational materials regarding indoor radon for the general public. The web site also lists companies that are certified to be proficient in screening or testing for radon and contractors that provide mitigation. Upon request, the VDH provides other publications on indoor radon.

7.14 MISCELLANEOUS OFFENSES

Local or state law enforcement officials enforce Title 62.1, Chapter 20, and Miscellaneous Offenses of the State Water Control Law. Complaints such as throwing trash or garbage into state waters or obstruction of waterways should be referred to law enforcement officials. The State Police, county/city police, local sheriff, DGIF game warden, VMRC enforcement officer or a forest warden all have the authority to enforce this law. The most expedient way to handle reports which fall outside of DEQ programs is to advise the complainant to contact local or state law enforcement officials directly. Refer to **Section 4.11 - Potential Criminal Violation** for guidance to address knowing and negligent violations of DEQ programs.

7.15 FISH KILLS

The DEQ is specifically charged in State Water Control Law (62.1-44.15(11)) with investigating the large-scale killing of fish. Some latitude is inherent in interpreting what constitutes “large-scale”. For this reason, it is important to try to obtain as much information as possible when a fish kill is reported to the DEQ.

In addition to the required minimum tracking information (See **Section 4.4 - Pollution Incident Complaint Tracking**), the following information should be obtained when a fish kill is reported:

1. Time the fish kill was first noticed.
2. Directions to the area of the kill that are as detailed as possible. (An investigator may have to find the site.)
3. Indication if kill is in progress, or if only dead fish were seen. If all fish were dead, how recently did they die?
4. Types of fish affected, including the species and the size of the affected fish.
5. Symptoms or behavior of the fish in the kill area. (e.g. gasping at surface, trying to jump out of water, bleeding at gills, etc.)
6. Estimated number of fish and the length of water segment affected. (These two factors provide an indication of the extent of the kill.)
7. Physical observations of the water such as color, odor, algae bloom or other unusual properties.

In the event of a major fish kill, the RO PREP should refer the case to the Regional Biologist or the Biologist Supervisor for management of the fish kill investigation. The link for the Fish Kill Manual is as follows.

http://deqnet/docs/main/water/guidance_memoranda/2002_guidance_memos/gm02-2002.fish_kill_investigation_man-2nd_ed.pdf

Section 6.0 - Requirements for DEQ to Make Notification contains DEQ notification requirements to localities and the news media.

DEQ does not generally respond to fish kills in private ponds unless there is a potential pollution source. PREP should refer these incidents to the local Cooperative Extension Service to provide advice on management of the pond to prevent further fish kills.

7.16 SEWAGE INCIDENT

All sewage pollution incidents should be relayed to the RO PREP. Upon receiving the notification, PREP will notify the Virginia Department of Health (VDH), the RO Water Compliance Manager and the RO Permit Manager. The RO should ensure that the municipality is aware of the pollution incident. The VDH will notify the local Health Department. A DEQ investigation may take place for line breaks which are reported during low flow conditions. Should the sewage pollution incidents/overflows become chronic; the DEQ RO permit and DEQ Office of Enforcement staff will work with the VDH representative to address the issue. When a sewage pollution incident affects shellfish or public water supplies, the VDH is responsible for closures. When a sewage pollution incident affects recreational waters, the local Health representative is responsible for closures of the water body. The DEQ should refer questions regarding health issues and their potential impacts to the VDH.

8.0 GUIDELINES FOR POLLUTION INCIDENT REFERRAL TO OTHER PROGRAMS

8.1 RESPONSE ROLES OF DEQ PROGRAMS

Calls received concerning the activities listed below may be transferred to the appropriate RO program for further action.

Activity	Program Responsibility
Air release	Unpermitted Facility – Air Compliance & Monitoring or PREP Permitted Facility - Air Compliance & Monitoring visible emissions (9 VAC 5-40-80), fugitive dust emissions (9 VAC 5-40-90), odor issues (9 VAC 5-40-140)
Animal Waste Lagoons	Permitted Facility - Water Compliance & Monitoring or Water Permits Unpermitted Facility- PREP
Fish Kills	RO Biologist/Biologist Supervisor or PREP
Groundwater Remediation	Petroleum – RO Remediation Non-Petroleum - Remediation or PREP (RO Specific)
Hazardous Waste (Clean-up, Management)	Waste Compliance and Monitoring
Hazardous Waste Siting	CO Waste Management Permitting
Industrial Waste Lagoons	Water/Waste Compliance & Monitoring
Landfills	Waste Compliance & Monitoring
Oil Spills	PREP
Petroleum Storage Tanks	Remediation
Solid Waste Disposal	Permitted Facility - Waste Compliance Unpermitted - PREP
Surface Water Discharges	Permitted Facility - Water Compliance & Monitoring or Water Permits Unpermitted Facility - PREP
Well Water Contaminated With Petroleum	Remediation
Wetlands Issues	VWP

VPDES Permit Issues

Water Permits
DMME for coal mining VPDES issues

8.2 RESPONSE ROLES OF OTHER STATE AGENCIES

Calls received concerning the activities listed below should be coordinated with, or transferred to, the appropriate agency for further action.

Activity	Agency
Agricultural and urban non-point sources (including fertilizer, pesticide/herbicide) that cause water pollution	Dept. of Conservation/Recreation
Fertilizer, pesticide and herbicide application	Dept. of Agriculture and Consumer Services
Animal waste operation that does not require a VPA Permit	Dept. of Agriculture and Consumer Services
Fish kills	VMRC, VDH, DGIF
Geothermal wells	Dept of Mines, Minerals, & Energy
Land application of sludge	DEQ, VDH, Dept. of Agriculture/Consumer Services, Locality
Logging complaints	Dept. of Forestry
Mining and mine drainage	Dept of Mines, Minerals, & Energy
Oil and gas field gathering pipelines and wells	Dept of Mines, Minerals, & Energy
Private water wells	VDH – local office
Public water wells	VDH – State Regional Office
Septage lagoons/septic tanks	VDH
Low Level Radiation	Bureau of Radiological Health, VDH
Radon	VDH
Impact of sewage discharge to public health	VDH
Contaminants affecting workers	Dept of Labor and Industry

A complete listing of all state agency roles and responsibilities with respect to natural and man-made disasters can be found in the Virginia Emergency Operations Plan 13.

8.3 RESPONSE ROLES OF LOCAL GOVERNMENTS

Siltation/erosion	County/City Planners/Engineers
Trash debris	County/City Solid Waste Management, Local Law Enforcement
Dumpster	County/City Solid Waste Management
Open burning	County/City Codes and Compliance - The emission standards for open burning are provided in 9 VAC 5-40-5600. Open burning concerns should first be directed to the local government with DEQ Air Compliance and Monitoring as the back-up contact.
Sewage Back-ups	City/County Sewage Authority
Septic Systems	City/County Health Department
Drinking water concerns	City/County Health Department
Yard waste	County/City Codes and Compliance

9.0 CONTRACTING PROCEDURES

The agency has certain statutory responsibilities to respond appropriately to actual or imminent threats to human health and the environment. This is not to imply that agency employees are to act as first responders, but rather as resource coordinators. First responders (local fire and rescue personnel) handle incidents involving immediate threats to human health and safety with the agency playing a supporting role. This distinction is important when executing emergency contracts for the abatement of environmental hazards. This issue is discussed below in more detail.

9.1 ENVIRONMENTAL AND FIRE/SAFETY EMERGENCIES

In emergency situations the DEQ may be required to execute emergency contracts for the containment, recovery, and disposal of materials creating an actual or immediate threat to human health and/or the environment. In these situations an emergency must be declared before the agency can execute emergency contracts or approve emergency work. As detailed below, the emergency declaration can come from a local official or from DEQ.

In situations where local emergency coordinators (fire officials or trained hazardous material officers) have determined there is an immediate danger to human health and property, site control resides with the emergency coordinator. DEQ plays a supporting role until the coordinator determines that the immediate danger has been abated. These incidents may involve fire, explosives, and/or chemicals. The key is that the emergency coordinators identify and control the incident AND make the determination of an emergency. DEQ supports the emergency coordinator until the coordinator determines the health and safety emergency has passed. If there is an ongoing environmental emergency, DEQ continues to provide support the emergency coordinator until control is passed to DEQ. If DEQ support requires the execution of an emergency contract, the Regional Office (RO) must make a declaration of an environmental emergency.

In environmental emergencies, there may be no immediate threat to human health and safety and therefore no declaration of emergency by local emergency coordinators. DEQ however, may recognize and declare an environmental emergency. For example: a release of diesel fuel from an abandoned drum results in pooled product in a drainage ditch. The local emergency coordinator does not determine there to be an immediate threat to health and safety. However, due to the proximity of the drainage ditch to a surface water body and an imminent rain event, DEQ declares an environmental emergency and executes an emergency contract to contain and recover the product.

Whether the situation is in the control of a local emergency coordinator or DEQ, an environmental emergency must be declared before an emergency contract can be executed by DEQ. A declaration of emergency is not required if a Petroleum State Lead contractor is used to respond to an environmental emergency.

9.2 EMERGENCY CONTRACTS

The Agency Director has delegated authority to the Regional Directors, Regional Deputy Directors, and in their absence or as directed or delegated the Remediation Managers to:

1. declare an environmental emergency and utilize emergency procurement procedures to address the emergency,

2. approve the use of up to \$50,000 from the Virginia Environmental Emergency Response Fund (VEERF) to address an environmental emergency situation, and
3. approve the use of up to \$50,000 from the Virginia Petroleum Storage Tank Fund (VPSTF) to address an environmental emergency situation.

The link to document which outlines these authorities, Delegation of Authority - Policy Statement No. 2-2003 is:

http://deqnet/docs/main/admin/admin_policy/delegations_of_authority03.doc

The guidelines for use of the VEERF for emergency response to an environmental pollution incident require that the incident:

1. poses a substantial threat to human health and safety or the environment; or
2. failure to undertake corrective action poses a significant increased threat to human health or the environment.

The link to Guidelines for use of the VEER Fund - Policy Statement No.2-2001 is as follows:

http://deqnet/docs/main/admin/admin_policy/veerf_policy.doc

An emergency is defined in the Agency Procurement and Surplus Manual as "an occurrence of a serious and urgent nature that demands immediate action." This definition includes both fire/safety emergencies declared by local officials and other environmental emergencies declared by the Regional Director. Approval to expend funds for this emergency action includes a requirement to comply with all applicable state statutes, regulations, and policies including those pertaining to emergency procurement, issuance of an emergency contract, and prompt payment. Efforts required to abate the immediate emergency situation may include containment, cleanup and disposal. Additional or subsequent work requirements shall be obtained using normal purchasing procedures.

Emergency Contracting Procurement Procedures

Listed below is a summary of key items that must be completed by the RO to issue an emergency contract.

1. Define the work requirements – develop scope of work.
2. Select a contractor.
3. Agree upon a price - There are no specific requirements for determining a fair and reasonable cost. The determination may be based on prices previously paid for similar work or published price lists, such as the VPSTF Reimbursement Manual UCR Schedule 5th Edition, (<ftp://ftp.deq.virginia.gov/pub/tanks/1985thv2.doc>). However, it should be expected that emergency contract work costs will exceed normal rates.
4. Complete Declaration of Environmental Emergency and obtain Regional Director signature.
5. Complete the Commonwealth of Virginia Emergency Contract and attach the General Terms and Conditions and Special Terms and Conditions for Emergency Contracts. Obtain signatures of the contractor and Regional Director. The Special Terms and Conditions recognizes that under RCRA regulations both DEQ and the contractor may be considered co-generators of any hazardous wastes managed under the contract and the contractor is fully responsible for proper management of the hazardous or non-

- hazardous wastes.
6. If the contract is >\$30,000, post a Notice of Emergency Award on the eVA web site for at least ten days. To post a notice on the eVA web site, complete the "Posting a Notice of Emergency Award" form or send an e-mail to Office of Financial Management (OFM) and attach the Declaration of an Environmental Emergency form.
 7. Once work is completed, instruct the contractor to send the report documenting cleanup and a copy of the invoice to the RO.
 8. The contractor must send original invoice to Accounts Payable in Richmond at the following address:

Department of Environmental Quality
Office of Financial Management
Accounts Payable Section
P.O. Box 10009
Richmond, VA 23240-0009
 9. Within 10 business days after contract execution, document the contract issuance in the following manner:
 - Declaration of Environmental Emergency: original in RO PREP file, copies to OFM and Enforcement.
 - Contract: original in RO PREP file, copies to contractor, OFM, and RO Remediation (State Lead coordinator).
 - Invoice: As indicated above, the contractor must be directed to send the original invoice to OFM and a copy to the RO. If the contractor mistakenly sends the original invoice to the RO, forward it to OFM immediately.
 10. Upon receipt of the report and invoice copy, the RO will determine if the work performed by the contractor meets the scope of work of the contract and if there are discrepancies in the invoice. The RO forwards a memorandum to OFM within 10 working days of report and invoice receipt verifying that the work was completed satisfactorily or documenting scope of work/invoice discrepancies. Within 5 working days of the contractor correcting scope of work deficiencies, forward a memorandum to OFM verifying that the work was completed satisfactorily.
 11. OFM e-mails PREP Coordinator a notice of payment and copies RO Remediation (State Lead coordinator).

Listed below is the link to the Environmental Emergency Procurement Procedures and forms.

http://deqnet/docs/default.asp?path=../main/admin/admin_policy/environmental_emergency

9.3 PETROLEUM STATE LEAD CONTRACT

The Petroleum Program State Lead contractors are required to possess the ability to mobilize an emergency response crew and all necessary equipment and materials within 2-3 hours to respond to releases of petroleum. The Regional Water Compliance Managers and Regional Deputy Directors may authorize PREP staff to direct a Regional Petroleum State Lead contractor to address a petroleum environmental fire/safety emergency.

In all cases, scopes of work and billing for emergency responses will be determined using the State Lead Activity Authorization form. The State Lead contractor shall submit an Activity Authorization Form (AAF) prior to, during, or within 24 hours of the initiation of site work. The State Lead contractor shall obtain verbal approval for any emergency work prior to initiation. The contract requires that a report or letter

documenting the emergency action be submitted to the DEQ within 14 days of AAF approval or as approved by the PREP staff. Depending on the extent of emergency action, varying levels of documentation are required. Appendix D contains guidelines for contractor report or letter requirements.

After the emergency action is completed, the State Lead contractor will fill in the work performed column, the actual cost column, and the total actual cost field on the AAF and submit this completed AAF to the RO for verification. The State Lead contractor also must submit copies of all subcontractor invoices that are fifty dollars or greater along with the AAF. The PREP staff will review and verify the work performed. If there are no deficiencies with the deliverable or the Work Performed AAF, the PREP staff will complete an AAF Verification Form and forward copies of the completed Verification Form and Work Performed AAF to the DEQ Finance Office and the contractor. Once the contractor receives this completed AAF Verification Form, the contractor may submit an invoice to DEQ Finance Office.

The verification of the AAF requires that the PREP staff verify that:

1. The report/letter for the emergency corrective action meets the requirements of the State Lead Contract.
2. No work performed exceeds the pre-authorized units except as noted.
3. No contract unit rate amounts exceed the rates established by the State Lead Contract for this contractor.
4. The contract cost for each Task and Time and Materials code and the actual cost was calculated correctly (*i.e.* work performed units X Contract Unit Price) for each Task and Time and Materials Code.
5. Each “at cost” item and the units are appropriate and subcontractor invoices adequately support the costs for all “at cost” costs greater than \$50.

Detailed procedures for the State Lead contract are contained in the State Lead Procedures Manual, the current Investigation & Remediation of Petroleum Contamination RFP and individual State Lead Contracts located in the Remediation Section of the RO.

9.4 TRACKING FINANCIAL INFORMATION IN CEDS

Emergency contracts and State Lead work are presently tracked in the STORMS Remediation module of CEDS. PREP staff will provide Regional Remediation staff timely tracking and financial information for entering this data into CEDS. It is envisioned that the new CEDS PREP module will allow PREP staff to track emergency and State Lead financial information directly in CEDS.

10.0 COST RECOVERY PROCEDURES

State Law provides for the recovery of costs incurred by the DEQ from the responsible party (RP) for certain types of pollution incidents. Where the severity of the incident requires enforcement action, PREP staff will coordinate with Enforcement staff to provide cost documentation and assist in the enforcement action. In these cases cost recovery will be included in the enforcement action. If the incident does not require enforcement action, the following table should be used to determine if cost recovery should occur.

Type of Spill	Authority for Cost Recovery	Recoverable Costs	Minimum Costs Requiring Recovery
Any type of pollution (spill/discharge) that causes a fish kill	SWCL Article 2 (General Funds)	Investigative, Fish Replacement	Cost recovery when total staff time exceeds 16 hours or total recoverable costs estimated exceed \$624.
Oil spill or threat of spill other than from a UST or AST	SWCL Article 10 (VPSTF)	Investigative, Cleanup	Cost recovery when an emergency contract issued/State Lead contractor utilized, or total staff time exceeds 16 hours or total recoverable cost estimated exceed \$624.
Release or imminent threatened release of pollution other than oil into the environment	WML §10.1-2500 (VEERF)	Investigative, Cleanup	Cost recovery when an emergency contract utilizing VEERF issued. Refer to VEERF Cost Recovery Procedure. See link below.
UST oil releases (regulated and exempt)	SWCL Article 10 (VPSTF)	Investigative, Cleanup	Cost recovery when total recoverable costs exceed \$624. Maximum recovery amount generally RP's Financial Responsibility requirement for access to the VPSTF. Refer to Cost Recovery Procedure for Underground and Aboveground Storage Tank Releases/Discharges. See link below.
Oil spill or threat of spill from an AST	SWCL Article 10 (VPSTF)	Investigative, Cleanup	Cost recovery when total recoverable costs exceed \$624. Maximum recovery amount generally RP's Financial Responsibility requirement for access to the VPSTF. Refer to Cost Recovery Procedure for Underground and Aboveground Storage Tank Releases/Discharges. See link below.

10.1 OIL STORAGE TANK AND VEERF COST RECOVERY

The Office of Financial Assurance (OFA) has developed policies and procedures to recover VPSTF money expended to cleanup releases of oil from storage tanks (UST and AST) and to recover VEERF money expended to cleanup other pollution incidents. These procedures require the Regional Office (RO) to provide staff time and expense information and other documentation to OFA which initiates the cost recovery action. The link to the OFA VEERF and VPSTF cost recovery procedures is as follows:

http://deqnet/docs/default.asp?path=../main/water/Water_srr/financial_responsibility/cost_recovery

10.2 FISH KILL COST RECOVERY

The Fish Kill Manual includes RO procedures to obtain fish replacement costs from the Department of Game and Inland Fisheries. Listed below is the link to the Fish Kill Manual for further information on documenting staff costs.

http://deqnet/docs/main/water/guidance_memoranda/2002_guidance_memos/gm02-2002.fish_kill_investigation_man-2nd_ed.pdf

Where enforcement action is not anticipated, the RO will initiate cost recovery action. The cost recovery form and instructions to document staff costs can be found at http://deqnet/docs/main/water/Water_srr/prep/prepcostrecovery.xls. Appendix F contains an example demand letter for fish kills. Enclose a blank W-9 Form with the demand letter (http://deqnet/docs/main/admin/admin_finance/finance_forms/w_9subst.xlw). Accounts Receivable staff should be copied on the demand letter. After the demand letter is sent Accounting staff will track due dates for payment and will refer past due accounts to Debt Set-off or Debt Collection.

10.3 COST RECOVERY FROM OIL SPILLS OTHER THAN A STORAGE TANK

Where enforcement action is not anticipated, costs for investigation and cleanup of oil spills other than from a storage tank will be recovered by the RO. Staff and emergency or State Lead contract costs should be recovered. The cost recovery form and instructions to document staff costs can be found at http://deqnet/docs/main/water/Water_srr/prep/prepcostrecovery.xls. Appendix G contains an example demand letter for oil spills. Enclose a blank W-9 Form with the demand letter (http://deqnet/docs/main/admin/admin_finance/finance_forms/w_9subst.xlw). Accounts Receivable staff should be copied on the demand letter. After the demand letter is sent, Accounting staff will track due dates for payment and will refer past due accounts to Debt Set-off or Debt collection.

10.4 FEDERAL OIL SPILL LIABILITY TRUST FUND

The federal Oil Spill Liability Trust Fund (OSLTF) is available to provide reimbursement for uncompensated removal costs and damages incurred during a response effort to an oil spill in navigable waters. The USCG manages this fund and access to the OSLTF will be coordinated through the CO. The PREP Program will seek reimbursement from the OSLTF for oil spills to surface waters where the RP is unknown. Key documentation required for filing a claim includes:

1. Notification to the National Response Center when the incident occurred.
2. Claim application and supporting field notes/pictures.
3. Letter from the Federal OSC concluding that the claim qualifies for reimbursement.
4. Certification of costs by the DEQ.
5. Daily cost accounting for DEQ staff costs.
6. Daily cost accounts for all contract work.

If a spill to surface waters occurs where the responsible part is unknown, The RO should contact OSRR to assist the PREP staff in preparing a claim for reimbursement from the OSLTF.

11.0 RESPONSE EQUIPMENT GUIDELINES

SAFETY EQUIPMENT: binoculars, orange whip light, flash light, emergency cones, hard hat, orange signal flags, orange safety vest, first aid kit (sting kit), emergency warning triangles, fire extinguisher, spotlight, bulbs, dust respirator, gas meter.

SAMPLING EQUIPMENT: dipnet, stainless buckets, eye protection, L sample cubes, 4 L sample cubes, fecal bottles, plastic/metal bottles, 2-1 L opaque plastic containers, pH meter, D.O. meter, residual chlorine test kit, aluminum foil, latching cooler, spool with rope, gasoline gauging paste, lab sheets, chlorophyll lab sheets, metal sediment sampler, plastic bucket, preservatives, sample tags, plastic tubing, Teflon spoons.

INVESTIGATION EQUIPMENT: camera, film, ruler, manhole cover remover, field notebook, Fish Kill Manual, Sampling Manual, ink pen.

PERSONAL EQUIPMENT: axe, shovels, hard hat, chemical resistant steel toe/shank shoes, rubber boots, rubber hip boots, heavy rubber gloves, rain coats/pants, , face shield, safety glasses, rubber patch kit, work gloves, coveralls, plastic waste bags, brooms, hand cleaner, paper towels.

12.0 SAMPLE COLLECTION

Parameters selected for analyses are incident dependent. Samples are generally not required unless necessary to determine the responsible party (RP) for the contamination or to document the type, extent, and level of pollution for enforcement action. Collection of samples is not a substitute for good, thorough field investigation. Because of the costs of sampling and analytical testing, good judgement is required in order to maximize the amount of information obtained from a minimal number of samples and parameters. In addition, all samples submitted with a Pollution Complaint laboratory analyses form are given priority at the Division of Consolidated Laboratory Services (DCLS) over other DEQ samples.

The potential legal importance of samples makes it essential that DEQ provide a program to ensure that staff are consistently trained as well as periodically tested in both sample collection and Chain-of-Custody procedures. Staff that collect samples for PREP will be required to obtain and maintain the DEQ training in sample collection and Chain of Custody procedures. Training will be provided in 2005/2006. After December 31, 2006 only staff with current training will be allowed to collect samples.

12.1 SAMPLING DIFFERENT INCIDENTS

Hazardous Substances Spills

In accordance with DEQ safety guidelines, staff does not sample hazardous substances or suspected hazardous substances. The RP or if necessary the emergency responder (VDEM, local official) will normally collect samples. If an emergency exists and the procedures for accessing the VEERF are followed, DEQ staff may hire a contractor and direct the contractor to collect and analysis samples for the incident.

Air Monitoring

PREP staff does not collect air samples as part of an incident investigation. If air sampling is required the staff should contact the Regional Air Section for sampling.

Water Sampling

Samples should be taken only if necessary in order to determine the RP for the contamination or to document the type, extent, and level of pollution for enforcement action. Field measurements for dissolved oxygen, pH, salinity, conductivity, and temperature should be taken whenever samples are being collected. Standard operating procedures for sample preservation and field measurements are contained in the Standard Operating Procedures Manual for the DEQ Office of Water Quality Monitoring and Assessment. The manual can be found at:

<http://www.deq.virginia.gov/watermonitoring/pdf/guidancemanual/wqmsop.pdf>

Oil Spills

Samples should only be taken if necessary to determine the RP for the contamination or to document the extent and level of pollution for enforcement action. Samples are not usually collected as part of the initial incident response. Once the spill has been stabilized Regional PREP staff should evaluate the impact of the spill on the environment to determine if sampling is necessary for enforcement and to assess

resource damage. Standard operating procedures for sample preservation and field measurements are contained in the Standard Operating Procedures Manual for the DEQ Office of Water Quality Monitoring and Assessment.

<http://www.deq.virginia.gov/watermonitoring/pdf/guidancemanual/wqmsop.pdf>

Solid Waste

PREP staff does not collect solid waste samples as part of an incident investigation. If solid waste sampling is required the staff should contact the Regional Waste Inspection Section for sampling.

12.2 SAMPLE ANALYSIS

CEDS is used for scheduling sampling events, transmitting field data, determining the status of samples and retrieving data. DEQ staff is required to enter data into CEDS in accordance with the CEDS Water Monitor Procedures Manual. The manual can be found at:

<http://www.deq.virginia.gov/watermonitoring/pdf/guidancemanual/wqmceds.pdf>

The quality and timeliness of sampling data entered in CEDS is the responsibility of the DEQ staff that collected the sample.

12.3 CHAIN OF CUSTODY

DEQ staff will follow Chain of Custody procedures as outlined in Guidance Memorandum No. 00-2016 dated October 23, 2000, and Clarification of the Chain of Custody procedures Guidance Memorandum No. 03-2003, dated January 24, 2004. These memorandums can be found at:

<http://www.deq.virginia.gov/watermonitoring/pdf/guidancemanual/cocpol.pdf>
<http://www.deq.virginia.gov/watermonitoring/pdf/guidancemanual/cocclar.pdf>

When samples are collected, precautions must be taken to preserve the sample's chemical and physical integrity during storage at the RO, transport to the lab, and storage at the lab prior to analysis. DEQ staff is responsible for documenting that the integrity of the sample has been maintained during this time. DEQ staff will document chain of custody through the lab tag that is affixed to each sample container. One side of the lab tag indicates the persons having custody of that sample container and the time that custody changed from one person to another. Any time the sample is not under the physical possession of the person with custody, it will be kept in a secure storage area. The procedure for documenting chain of custody is as follows:

1. The person collecting the sample must complete the lab tag for that sample.
2. If custody of the sample is transferred from the sampler to another person, the person accepting custody of the sample must place his/her name in the next line on the lab tag and indicate the date and time that sample custody was transferred.
3. If a courier transports the sample to DCLS (or another lab), the waybill will serve as an extension of the Chain of Custody record between the final field custodian and receipt of the sample(s) in the lab. The sender's copy of the waybill should be placed in the appropriate case file with copies of all lab sheets. The waybill tracking number should also be entered in the sampler's field logbook.

12.4 QUALITY CONTROL

Quality control refers to the series of procedures and activities that are performed to ensure that the data collected meet the established standards. The primary purpose of quality control is to ensure that the sampling and analytical protocols are properly executed.

Blanks

In order to determine if the sample container, preservative, or sampling procedure (including environment) has introduced contaminants into a sample, PREP staff are encouraged to collect a field blank along with the other samples that they collect during their investigation. Field blanks are collected by placing reagent grade water into an appropriately preserved sample container at the location where other samples are collected. Once the field blank is collected, it is labeled and placed in a cooler along with the other samples. Trip blanks may be prepared at the discretion of the incident responder to determine if the sample container, preservative, or transportation process may be introducing contaminants into the sample. Trip blanks are prepared prior to visiting the site by placing de-ionized water into appropriate sample containers. These trip blanks are then placed into the sample cooler, taken into the field, and sent to the laboratory along with the other samples collected for analysis. If a field or trip blank was submitted to the DCLS the incident responder will review analytical data provided for the blank(s). The presence of contamination in a field blank suggests that sample integrity may be compromised and that constituents found in the samples may be from locations other than the incident. If the contaminants in the blank are also found in the sample for the incident, the incident samples usually cannot be used. If possible and necessary, PREP staff will collect an additional round of samples from the incident. A trip blank will be taken into the field by the sampler and the sampler will also collect another field blank. Both blanks will be analyzed along with any other samples collected as a means of assisting PREP staff to identify the source of cross contamination should these blanks also contain detectable concentrations of contaminants.

13.0 NATURAL RESOURCE DAMAGE ASSESSMENT

One of the most obvious features of a major oil or hazardous substance spill is the damage caused to natural resources. If after cleanup of the spill there remain damages or “injuries” to the watercourse, aquatic life, wildlife or economic interests dependent on those resources, federal law provides that a Natural Resource Damage Assessment can be conducted to determine how these resources can be restored to pre-incident conditions. The responsible party (RP) works with federal and state natural resource Trustees to assess the injuries, evaluate restoration alternatives and implement a plan to restore, rehabilitate, replace or acquire natural resources and the services provided by those resources that approximate those injured as a result of the spill. The process can take years and the result is a consent decree entered into with the federal government, state trustees and the RP. While state law provides for the recovery of the replacement cost of fish and costs of the investigation in the event of a fish kill, the NRDA process goes much further in scope and authority.

The National Contingency Plan designates officials of certain federal agencies to act on behalf of the public as Trustees for natural resources. The U. S. Fish and Wildlife Service, on behalf of the Secretary of the Interior, is the Trustee agency for migratory birds, anadromous fish and endangered species and their habitats. NOAA, on behalf of the Secretary of Commerce, is the Trustee agency for tidal waters, marine mammals and marine fisheries. Trustees from other federal entities such as the National Park Service, Department of Defense or Department of Energy are designated if natural resources are injured on lands managed by them. The State Trustee for Virginia is the Secretary of Natural Resources. If and when Virginia’s Indian tribes receive federal recognition, they will have individual natural resource Trustees for their respective tribal lands. In the meantime, the State Trustee acts on behalf of the tribes.

In the event of a spill the Trustees are notified by either the FOSC or through the National Response Center of the potential for injuries to Trust resources. It should be noted that the size of the spill is not necessarily an indication of the need for conducting an NRDA; it is the degree of injury to a particular resource. For example, small streams in SW Virginia containing endangered mussels are very vulnerable to spills from even “routine” transportation accidents.

If an NRDA is conducted as a result of an oil spill (when cleanup costs can be recovered from the spiller) it is important to keep separate time, equipment and expense costs for NRDA activities. The actions taken to oversee the actual spill cleanup are considered “removal costs” and are separate from those undertaking the damage assessment. Removal costs are recovered from the RP under separate legal action.

Conducting an NRDA is usually a long and very complex process. It may take many months to determine if there are injuries to the resources and if it is in the state’s interest to pursue the case. It may take years to determine the best means for restoration of the damaged resources and to develop agreements between the RP and the federal and State Trustees.

If an NRDA becomes necessary, the RO will be asked to provide staff to manage the process. The NRDA consists of a pre-assessment phase, a restoration planning phase and a restoration implementation phase. The pre-assessment phase will determine the extent of the NRDA. Based on the pre-assessment phase, the full assessment may not be necessary even in the event of a large spill. If necessary, the CO may provide the NRDA coordinator. The NRDA can become a time consuming project and may also cross RO boundaries.

For more information about NRDA processes and for case studies see the NOAA website at:
<http://www.darp.noaa.gov/>

14.0 FREQUENTLY USED TELEPHONE NUMBERS

FEDERAL GOVERNMENT:

National Response Center	800-424-8802 - 24 Hour
CHEMTREC	800-424-9300 - 24 Hour
USCG Marine Safety Office Hampton Roads	757-668-5500 - Days
	757-668-5555 - Nights
USCG Activities Baltimore Office	410-576-2561
EPA Region III, Philadelphia	215-814-3254 - 24 Hour
EPA National Product Schedule Information Line	703-603-9918
Emergency Planning and Community Right-to-Know Act Hotline	800-424-9346
National Park Service	757-898-3400
National Oceanic & Atmospheric Administration	757-898-7318 - 24 hour
Region III Scientific Support Coordinator (Gary Ott)	757-856-2755 - Days
U.S Fish and Wildlife (Richmond)	804-771-2481/2883
U.S Fish and Wildlife (Gloucester)	804-693-6694
OSHA	800-321-6742
Federal Emergency Management Agency	202-566-1600
FBI Richmond	757-261-1044
FBI Norfolk	757-455-0100

**U.S ARMY CORP OF ENGINEERS
NORFOLK DISTRICT REGULATORY BRANCH**

Branch Chief: Bob Hume (757) 441-7657

General Information: (757) 441-7652

NORTHERN VA REGULATORY SECTION

Bruce Williams – Chief (757) 441-7418

Rick Henderson 441-7653

Northern Neck (Lively, Whitestone)

William (Mac) McGlaun (804) 462-5382

Adrian Jennings (804) 435-9362

Fredericksburg

Hal Wiggins (540) 548-2517

Regena Bronson (540) 548-2488

Northern Virginia (Dumfries)

Ron Stouffer (703) 221-6967

Terri Crockell-Augustine (703) 221-9736

Anna Oliver (703) 221-9010

Goucester County (Bena)

Alicia Riley (804) 642-5070

EASTERN VA REGULATORY SECTION

Nick Konchuba – Chief (757) 441-7684

Greg Culpepper 441-7655

Alice Allen-Grimes 441-7219

Steve Martin 441-7787

Kathy Perdue 441-7218

Tracy Dotolo 441-7122

Tucker Smith 441-7135

Eastern Shore (Accomac)

Gerry Tracy (757) 787-3133

Great Bridge (Chesapeake)

Audrey Cotnoir (757) 549-8819

Southside (Nottoway)

Ed Graham (434) 645-8986

Julie Sunderland (434) 645-7173

WESTERN VA REGULATORY SECTION

Mike Schwinn - Chief (757) 441-7182

John Evans 441-7794

Peter Kube 441-7504

Robert Berg 441-7793

Lesley Leonard 441-7540

Scharlene Floyd 441-7367

Cara Sydnor 441-7580

Western VA (Staunton)

Jim Brogdon (540) 886-4221

Central VA (Howardsville)

Nora Iseli (434) 263-8247

Blue Ridge (Christiansburg)

Thom Leedom (540) 382-6740

Clinch Valley (Abingdon)

Annette Poore (276) 623-5259

Walker Mountain (Wytheville)

Carolyn Beatty (276) 228-4592

COMMONWEALTH OF VIRGINIA:

Agriculture, Department of Consumer Services	804- 786-3501/3798
Pesticide Management (VDACS)	800-552-9963 ext 63798
Conservation and Recreation, Department of	804-786-6124
Division of Soil and Water Conservation	804-786-2064
Division of State Parks	804-786-4375
Division of Natural Heritage	804-786-7951
Emergency Management, Department of	800-468-8892 - 24 hour
	804-674-2400 - Days
DEQ Criminal Investigation Unit	804-389-5168 - 24 hour
	804-698-4272 - Days
Game and Inland Fisheries, Department of	804-367-1000
Wildlife Violation Hotline	800-237-5712
Division of Shellfish Sanitation	804-786-7937
Division of Water Supply Engineering	804-786-2885
Mines, Mineral & Energy, Department of	
Richmond Office	804-692-3200
Abingdon Office	276-676-5577
State Police	804-674-2000
Virginia Institute of Marine Science (Gloucester)	804 684-7000
Virginia Marine Resources Commission	800-541-4646--24hour
Division of Consolidated Laboratory Services	804-786-1155
VDOT Transportation Emergency Operations Center	804-371-0891

LOCAL GOVERNMENTS:

Each Regional Office will develop a region specific list for those local government officials that may be contacted during a pollution incident.

APPENDIX A

Pollution Incident Reporting Form

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

ENVIRONMENTAL POLLUTION INCIDENT REPORT

IR 200 - -

Assigned To:		Air <input type="checkbox"/>	Water <input type="checkbox"/>	Solid Waste <input type="checkbox"/>	Haz Waste <input type="checkbox"/>	Petroleum <input type="checkbox"/>
Sewage <input type="checkbox"/>		Fish Kill <input type="checkbox"/>	Terrorism <input type="checkbox"/>	Wetlands <input type="checkbox"/>		
Call Recv'd. By:				Date:	Time:	
Reported By:				Phone:		
Address:						
City:				State:	Zip:	
Responsible Party:				Phone:		
Address:						
City:				State:	Zip:	
Site Name:				Facility ID:		
Site Address/Location:				Phone:		
				Map Name:		
				Map No.:		
City/County:						
Contact on Scene:				Phone:		
Property Owner:				Phone:		
Description of Incident:			Date:		Time:	
Site Visit ____ Phone Call ____ Date: _____ Action Taken: _____ See Memo: Yes ☺ No ☹						
Possible Receptors/Affected Water Body:						
Amount of Material/Units:						
Description of Materials:						
Referral/Notification of Local Gov't. Administrator (Name/Agency)-required for imminent threat::						
Phone:						
Closed by / Date:						

APPENDIX B

Emergency Response Report Guideline

Emergency Response Report Guideline

The following outline lists the requirements of an Emergency Response Report. The DEQ can, at its sole discretion, eliminate any of these requirements. The Virginia DEQ reserves the right to disapprove contract deliverables based on incomplete or non-conclusive reporting.

- I. Title Page
 - a. Site Name
 - b. Site Address
 - c. Site Contact Name and Phone Number
 - d. Pollution Complaint Number
 - e. Date
 - f. DEQ case manager
- II. Signature Page
 - a. Preparer's name, address, telephone and fax numbers
 - b. Professional certification information (if applicable)
- III. Executive Summary
- IV. General Site Information
 - a. Site description – reference photographs
 - b. Site maps or updated site maps to include
 - 1. Topographic map indicating site location
 - 2. Site map with all buildings and roads (labeled)
 - 3. Larger scale site map with adjacent properties and buildings
 - 4. any supply wells, labeled potable or irrigation
 - 5. utilities, above and below ground
 - 6. entire UST system (present and/or former)
 - 7. sampling points/monitoring wells
- V. Release Information
 - a. Description of source of (cause of release)
 - b. Type of product released
 - c. Amount of product released (please explain how amount was derived)
 - d. Incident Description/Response History (when, how, where, duration)
- VI. Soil and/or ground water sampling data
- VII. Initial Abatement Measures Taken
 - a. Actions taken to prevent further release
 - b. Hazard mitigation
 - c. Free product recovery
 - d. Actions taken to prevent further migration of contaminants
- VIII. Soil Management (if applicable)
- IX. Appendices
 - a. Certificate(s) of disposal
 - b. Certificate(s) of analysis
 - c. Applicable photographs
 - c. Conversation logs

APPENDIX C

Example Request for Corrective Action Letters

Non-tank Related Oil Spills

Request for Immediate Corrective Action

Date and Time of Incident Report:

Location of Incident:

Discharged Material:

Vehicle License, State, and Number:

Other Responding Agencies:

Code §62.1-44.34:18 of the State Water Control Law requires any person discharging or causing or permitting a discharge of oil into or upon state waters or lands to take immediate action to contain or cleanup the discharge. The Virginia Department of Environmental Quality (DEQ) has reason to believe that (name) is responsible for the above-referenced discharge. Therefore, DEQ requests that you take immediate corrective action to cleanup the discharged material and restore the impacted area(s). You are expected to mobilize the necessary resources to initiate cleanup actions by ____ (time) on ____ (date) and complete the cleanup and site restoration activities by ____ (date). Please coordinate your activities with ____ (contact name) of the Virginia Department of Transportation to determine any traffic control, land use permitting, and site restoration requirements.

Failure to respond may result in enforcement action by DEQ. If DEQ conducts the cleanup because of your failure to act, DEQ may seek reimbursement from you for all costs incurred in undertaking the corrective action. This request is neither a case decision under the Virginia Administrative Process Act, Virginia Code § 2.2-4000 *et seq.*, nor an adjudication. Please contact me at _____, if you have any questions, or if you believe that you are not responsible for the discharge. Your prompt cooperation is appreciated.

Sincerely,

PREP Case Manager

**Non-oil spills To State Waters
Or That Threaten State Waters**

Request for Immediate Corrective Action

Date and Time of Incident Report:

Location of Incident:

Discharged Material:

Vehicle License, State, and Number:

Other Responding Agencies:

Code §62.1-44.5 of the State Water Control Law prohibits waste discharges to or other quality alteration of state waters except as authorized by a permit. The Virginia Department of Environmental Quality (DEQ) has reason to believe that _____ (name) is responsible for the above-referenced unpermitted discharge that has or may reasonably be expected to enter state waters. Therefore, DEQ requests that you take immediate corrective action to cleanup the discharged material and restore the impacted area(s). You are expected to mobilize the necessary resources to initiate cleanup actions by ____ (time) on _____ (date) and complete the cleanup and site restoration activities by _____ (date). Please coordinate your activities with _____ (contact name) of the Virginia Department of Transportation to determine any traffic control, land use permitting, and site restoration requirements.

Failure to respond may result in enforcement action by DEQ. If DEQ conducts the cleanup because of your failure to act, DEQ may seek reimbursement from you for all costs incurred in undertaking the corrective action. This request is neither a case decision under the Virginia Administrative Process Act, Virginia Code § 2.2-4000 *et seq.*, nor an adjudication. Please contact me at _____, if you have any questions, or if you believe you are not responsible for the discharge. Your prompt cooperation is appreciated.

Sincerely,

PREP Case Manager

Non-oil spills With No Threat to State Waters

Request for Immediate Corrective Action

Date and Time of Incident Report:

Location of Incident:

Discharged Material:

Vehicle License, State, and Number:

Other Responding Agencies:

The Virginia Department of Environmental Quality (DEQ) has reason to believe that (name) is responsible for the above-referenced spill. Therefore, pursuant to Va. Code §10.1-1402.21, DEQ requests that you take immediate corrective action to cleanup the spilled material and restore the impacted area(s). You are expected to mobilize the necessary resources to initiate cleanup actions by ____ (time) on ____ (date) and complete the cleanup and site restoration activities by ____ (date). Please coordinate your activities with ____ (contact name) of the Virginia Department of Transportation to determine any traffic control, land use permitting, and site restoration requirements.

Failure to respond may result in enforcement action by DEQ. If DEQ conducts the cleanup because of your failure to act, DEQ may seek reimbursement from you for all costs incurred in undertaking the corrective action. This request is neither a case decision under the Virginia Administrative Process Act, Virginia Code § 2.2-4000 *et seq.*, nor an adjudication. Please contact me at _____, if you have any questions, or if you believe that you are not responsible for the discharge. Your prompt cooperation is appreciated.

Sincerely,

PREP Case Manager

APPENDIX D

Compliance Investigations - Notification Routing

CONFIDENTIAL

COMPLIANCE INVESTIGATIONS - NOTIFICATION ROUTING

TO: Ralph Mayer, Office of Enforcement

Facility Name: _____ PC #: _____
Address: _____ Permit #: _____
Location: _____ Phone #: _____

Facility owner(s): _____
Operator: _____ Contact: _____
Violation Reported By: _____
Date Violation Reported: _____ Region: _____

CATEGORIES OF NON-COMPLIANCE

PROGRAM(S) VIOLATED:

ALLEGED POTENTIAL CRIMINAL VIOLATIONS:

MISDEMEANOR:	NEGLIGENT	[]
FELONY:	KNOWING VIOLATION	[]
	KNOWING FALSE STATEMENT	[]
	KNOWING MEASURING DEVICE	[]
	KNOWING IMMINENT DANGER	[]

DESCRIPTION OF ALLEGED VIOLATION(S)

Violation Date: _____ (List each date if diff.)

EVIDENCE (ATTACH PERTINENT DOCUMENTS)

STAFF WITNESS:	[]	OTHER WITNESS: (signed statements)	[]
FILE/DOCUMENTS:	[]	CAS INDICATOR/PRINTOUT:	[]
DMRS:	[]	SUSPICIOUS REPORT:	[]
PICTURES:	[]	SUSPICIOUS ACTIVITY:	[]
VIDEO TAPES:	[]	VERBAL REPORT:	[]
LAB DATA:	[]	OTHER NON-HARD EVIDENCE:	[]
OTHER HARD EVID.:	[]		

ENVIRONMENTAL IMPACT

STATE WATER IMPACTED? NO [] YES [] UNKNOWN []

LIST STATE WATER(S) IMPACTED: _____

IF IMPACTED DESCRIBE BELOW OR USE ATTACHMENT _____

ECONOMIC ADVANTAGE

ECONOMIC ADVANTAGE FOR ACTIVITY? NO [] YES [] UNKNOWN []
DESCRIBE BELOW OR USE ATTACHMENT

REGIONAL PROGRAM COMMENTS (USE NA IF NOT APPLICABLE)

PERMIT

COMPLIANCE

NAME

DATE

ENFORCEMENT

NAME

DATE

NAME

DATE

CONCURRENCE :

REGIONAL DIRECTOR

DATE

COMMENTS :

APPENDIX E

VDOT Roadside Incident Information Report

VIRGINIA DEPARTMENT OF TRANSPORTATION
ROADSIDE INCIDENT INFORMATION REPORT

Hazmat Manager ☐

File AHQ ☐

Reference No. _____

Instructions: This is a non-mandatory but strongly recommended form to facilitate communication of information necessary to address Roadside Incidents. Obtain as much information regarding the Roadside Incident utilizing the form provided below, then notify your Regional Hazardous Materials Manager, as needed. If space provided is inadequate, complete that item on the back of the form. Do not wait to obtain all information before notifying the Regional Hazardous Materials Manager. A copy should be provided to the Area Headquarters and, if needed, to the Regional Hazardous Materials Manager. Completion of all fields is not required.

I. Date and Time of Incident

Date: _____

VDOT Respondent: _____

VDOT Residency: _____

County: _____

Time: _____

II. On-Site Organizations/Responders

(check all that apply)

☐ DEQ

☐ Fire Department

☐ DEM

☐ Local Emergency Response

☐ State Police

☐ Other

III. Location of Incident

Route/Street/Highway _____ City _____

Closest Intersection/Mile Marker _____ County _____

Lanes (i.e. northbound, southbound) _____

GPS Location (if possible): Lat _____ Long _____

IV. Involved Party Information

Party #1 Name _____ Party #2 Name _____

Driver Name _____ Driver Name _____

Address _____ Address _____

City _____ State _____ Zip _____ City _____ State _____ Zip _____

Phone No. _____ Phone No. _____

Type of vehicle(s) Involved #1 _____ #2 _____

License Plate No(s). #1 _____ #2 _____

Insurance Provider(s) & Policy No.#1 _____ #2 _____

Truck US DOT Number #1 _____ #2 _____

V. Spill Information

Spill Material Name _____ Est. Quantity Spilled _____

Container Type _____ Est. Soil Impact _____

Description of Spill (use back of this sheet if more space needed):

(i.e., wholly on roadway, paved or dirt shoulder, ditches and/or drop inlets, etc.)

VI. Receptor Information

Did Spill Reach Drainage Conveyance or Surface Water? ☐ Yes ☐ No

Conveyance Type: ☐ Ditch Drop ☐ Inlet

☐ Surface Water ☐ Other Drainage Structure

Approximate Distance to Surface Water (if available) _____

Other Environmentally Sensitive Receptors? (i.e., groundwater wells, wetlands, etc. - identify) _____

VII. DEQ Incident Response Number _____

VIII. Other Information

Police Report Obtained ☐ Yes ☐ No
Police Report Attached ☐ Yes ☐ No
Drawing Attached ☐ Yes ☐ No
Photos Obtained ☐ Yes ☐ No
DEQ Report Attached ☐ Yes ☐ No

Clean Up Contractor Information

Name _____
Phone No. _____

List Parties Notified of Release (i.e. DEQ, National Response Center, etc.) _____

IX. Resolution

Cost Incurred Labor (VDOT) _____
Materials (VDOT) _____
Equipment (VDOT) _____
Contractor _____
Cost Recovery Sought? ☐ Yes ☐ No



X. Contacts

REGION	PREP CONTACT	PHONE #	FAX #
Northern Virginia R.O.	Patty Greek	(703) 583-3864	(703) 583-3871
Piedmont R.O.	Steve Morris	(804) 527-5042	(804) 527-5106
Tidewater R.O.	Chris Haywood	(757) 518-2179	(757) 518-5003
Valley R.O.	Larry Carpenter	(540) 574-7844	(540) 574-7844
South Central R.O.	Michael Cholko	(434) 582-5120	(434) 582-5125
West Central R.O.	Allen Linkenhoker	(540) 562-6814	(540) 562-6725
Southwest R.O.	Judy Osborne	(276) 676-4883	(276) 676-4899

R.O. = Regional Offices

VDOT TEOC # (804) 371-0891

APPENDIX F

Example Fish Kill Demand Letter for Cost Recovery

Example Fish Kill Letter for Cost Recovery

(Insert Date)

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

(Insert Name & Address of Liable Party)

Re: Cost Recovery, IR# _____

Dear (Insert Name of Liable Party):

On or about _____ (insert date of incident), the Virginia Department of Environmental Quality (the "Department") received a report of a pollutant discharge into _____ (insert name of receiving water). In accordance with Virginia Code §§ 62.1-44.15(6) and (11), the Department undertook an investigation of the discharge incident. The Department's investigation revealed that:

1. (describe the source of the discharge)
2. (describe the nature/amount of the discharge)
3. (describe the effect of the discharge, e.g. fish kill, impact to drinking water source, etc.)
4. (describe the nature of the party's liability, e.g. owner of the facility from which the discharge originated)
5. (describe the facts that led the Department to believe that the discharge was the cause of the fish kill)

The cost of the investigation was approximately \$ _____. In addition the Department anticipates that the replacement cost of fish killed as a result of the discharge will be \$ _____. Enclosed are statements detailing the referenced costs (include copy of DEQ time/travel/materials cost recovery worksheet and copy of DGIF fish replacement cost worksheet).

As the (restate the nature of the party's liability, e.g. owner of the facility from which the discharge originated) and pursuant to the provisions of §62.1-44.15(11) of the State Water Control Law, the Department is billing you for investigative and fish replacement costs totaling \$ _____ (insert total of investigative and fish kill replacement costs). Payment may be made by check payable to the "Treasurer of Virginia" and delivered to "Department of Environmental Quality, P. O. Box 10150, Receipts Control, Richmond, VA 23240". Also enclosed is a W-9 form that will need to be completed and submitted with your payment. Please include a copy of this correspondence, with your payment and W-9 Form, in order to insure that your payment is appropriately credited. Your contact, if you have any questions concerning this matter will be _____. You may reach

_____ (insert contact's name) at _____ (insert phone number).

If the payment requested herein is not received within 30 days of the date of this letter, interest and late fees may be applied to your account. In addition, your account may be referred to a collection agency, or to the Office of the Attorney General for pursuit of civil litigation against you, or to the Department of Treasury for offset against any payments due you from the Commonwealth of Virginia.

Sincerely,

Enclosures

cc: Accounts Receivable

APPENDIX G

Example Oil Spill Demand Letter for Cost Recovery

Example Oil Spill Letter for Cost Recovery

(Insert Date)

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

(Insert Name & Address of Liable Party)

Re: Cost Recovery, IR# _____,

Dear (Insert Name of Liable Party):

On or about _____ (insert date of incident), the Virginia Department of Environmental Quality (the "Department") received a report of an oil spill at _____ (describe location of incident). In accordance with Virginia Code §§ 62.1-44.34:18, the Department undertook an investigation of the discharge incident. The Department's investigation revealed that:

1. (describe the oil spill)
2. (describe the nature/amount of the spill)
3. (describe the effect of the spill e.g. saturated soil had to be removed to prevent ground water contamination, etc.)
4. (describe the nature of the party's liability, e.g. owner trucking firm from which the discharge originated)

The cost of the investigation and cleanup was approximately \$ _____. Enclosed are statements detailing the referenced costs (include copy of DEQ time/travel/materials cost and contractor invoice if applicable).

As the (restate the nature of the party's liability) and pursuant to the provisions of §62.1-44.34:11.G of the State Water Control Law, the Department is billing you for investigative and cleanup costs totaling \$ _____. Payment may be made by check payable to the "Treasurer of Virginia" and delivered to "Department of Environmental Quality, P. O. Box 10150, Receipts Control, Richmond, VA 23240". Also enclosed is a W-9 form that will need to be completed and submitted with your payment. Please include a copy of this correspondence, with your payment and W-9 Form, in order to insure that your payment is appropriately credited. Your contact, if you have any questions concerning this matter will be _____. You may reach _____ (insert contact's name) at _____ (insert phone number).

If the payment requested herein is not received within 30 days of the date of this letter, interest and late fees may be applied to your account. In addition, your account may be referred to a collection agency, or to the Office of the Attorney General for pursuit of civil litigation against you, or to the Department of Treasury for offset against any payments due you from the Commonwealth of Virginia.

Sincerely,

Enclosures

cc: Accounts Receivable